

**ENVIRONMENTAL PROTECTION AGENCY**

**NACEPT TDR COMMITTEE MEETING**

**January 29, 1998**

**Loews L'Enfant Plaza Hotel  
480 L'Enfant Plaza East, SW  
Washington, D.C.**

**Proceedings By:**

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Linda Brown  
Samuel Z. Chamberlain  
Andy Comai  
Michael Keith Eck  
Joan H. Fassinger  
David Fees  
Susan Ferguson  
Robert J. Garner  
Ken Geiser  
Carolyn Hartmann  
David Jacobs  
Thomas E. Natan, Jr.  
Paul Orum  
Rick Reibstein  
Edmund Skernolis  
Michael Sprinker  
Robert C. Steidel  
Jonathan A. Stone  
Wilma A. Subra  
Victoria D. Sullivan

TDR Committee Members Absent

John Chelen  
Grant Smith

Environmental Protection Agency

Christine Augustyniak  
Cassandra Vail  
Maria Doa  
Michael Hart  
Sarah Hissel-McCoy  
Neal Koffman (EPA contractor, facilitator)  
Amanda Aranda  
Michelle Price  
Rob Wing

Attendees

John Buffington

Scott Burrell  
Seeger, Potter, and Richardson

Jennifer Charneski  
EPA

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## P R O C E E D I N G S

(8:40 a.m.)

### **Agenda Item: Welcome and Introductory Remarks.**

MR. PRICE: Welcome everybody to the meeting today. We are going to just go around the room and have everybody introduce themselves and get right into our agenda. I think Maria is going to talk briefly about a couple of things before we get started into the logistics/communications issues.

I am Michelle Price with EPA.

MS. DOA: Maria Doa, EPA.

MS. VAIL: Cassandra Vail, EPA.

MS. BROWN: Linda Brown, Louisiana Department of Environmental Quality.

MR. CHAMBERLAIN: Sam Chamberlain, Sterling Chemicals representing CMA.

MR. SPRINKER: Michael Sprinker, International Chemical Workers Union Council for Food and Commercial Workers.

MS. SUBRA: Wilma Subra representing the environmental community in Louisiana.

MS. FERGUSON: Susi Ferguson with the Texas Natural Resources Conservation Commission.

MR. ORUM: Paul Orum, Working Group on Community Right to Know in Washington, D.C.

MR. NATAN: Tom Natan, National Environmental Trust.

DR. BORDACS: Krisztina Bordacs with Smithkline Beecham. I am representing the pharmaceuticals industry.

MR. GEISER: Ken Geiser, University of Massachusetts.

MR. GARNER: Bob Garner, Chem Central representing the National Association of Chemical Distributors.

MR. STONE: Jon Stone, Delta Resins and Refractories representing the American Foundrymen's Society.

MR. STEIDEL: Bob Steidel, Hopewell Regional Waste Water, Hopewell, Virginia, Representing AMSA.

MR. JACOBS: David Jacobs, Northwestern Plating representing the National Association of Metal Finishers.

MR. BROMLEY: Corey Bromley, Cypress EMX Minerals Company, here on behalf of the National Mining Association.

MR. ECK: Michael Eck, U.S. Army Environmental Center.

MS. JOYCE: Stephanie Joyce, Tascon.

MR. FEES: David Fees, Delaware Department of Natural Resources.

MS. PRICE: We do not have that many people here in the audience, but we might as well introduce them. So, the people around the side of the room.

MS. McCOY: I am Sarah Hissel-McCoy. I work in the EPA's Toxic Release Inventory Branch.

MS. ARANDA: Amanda Aranda. I work with EPA's General Counsel.

MR. WING: Rob Wing. I work in EPA's Office of General Counsel.

MR. KOFFMAN: Neal Koffman. I am your facilitator today.

MR. DIFAZIO: John DiFazio, Chemical Specialties Manufacturers' Association.

MR. VAN VORHEES: Bob Van Vorhees and Brian Tate here on behalf of the Chemical Manufacturers' Underground Industrial Control Group.

MR. O'HARA: Geoff O'Hara, National Association of Chemical Distributors.

MR. LATIMER: Rick Latimer, ELI Lilly Company.

MR. DWYER: Rod Dwyer, National Mining Association.

MR. RICHARDSON: Scott Grossey Richardson here for Lead Industry Association.

MS. LUCAS: Amy Lucas, American Foundrymen's Society.

MR. BROMBERG: Kevin Bromberg, Small Business Administration, Office of Advocacy.

MR. KUHN: Scott Kuhn, Laidlaw Environmental Services.

MS. FASSINGER: [Entering the room.] Joan Fassinger.

MS. PRICE: We just went around the table. We want to go ahead and get started with Maria.

**Agenda Item: Logistics/Communication Issues.**

MS. DOA: We are going to modify the agenda briefly. There have been some significant problems with travel, and we want to address them on the agenda. My boss, Christine Augustyniak, who handles that type of stuff, is going to come at 11:30 to talk about that. Number one, so we can remedy all of the problems and stop them from happening again.

Number two is we have been sued. We have a number of lawsuits on focusing on facility expansion. When topics dealing with those lawsuits come up, I would like to stop conversation on them. I do not feel that it is appropriate. One issue in particular is release, and I know we have had discussions about that before, so I just wanted to let everyone know.

MS. FERGUSON: Do you have a list of the suits that have been filed?

MS. DOA: I do not have the suits with me, but it has been on mining, electric generating facilities, and we received one from cement kilns on de minimis and energy recovery.

MS. FERGUSON: If we focus our discussions on things we would like to see or improvements we would like to see and stayed away from regulatory discussion, would that be a way to approach some of the issues without getting into the areas that you might feel uncomfortable and/or not to be imposed upon?

MS. DOA: I believe that the only issue —yes, but I believe that the —and I could be wrong, and something may come up. The main issue is probably release. As long as we stay with the ground rules that I tried to lay out before, I think we should be fine.

MS. PRICE: Any other questions?

PARTICIPANT: Also, if you are plaintiff to one of the issues [commenting off microphone] unless you have a written waiver that you are willing to give me right this minute. If you are a plaintiff in the litigation, please do not discuss the litigation of any issues.

MR. GEISER: I did not understand. I understand the problem, but I do not understand the objective. We cannot talk about the rules?

MS. DOA: One of the things that happened —  
[Laughter.]

No, no. I think people —in the May 1, 1997, rule, which I will call the facility expansion rule, we discussed the statutory definition of release and EPA's interpretation of that. In talking about the Form R and data release, what I would ask is that we not debate EPA's interpretation, we go with EPA's interpretation. Based on that, we would talk about the form, how we could improve the form or the data or whatever. Does that help?

MR. GEISER: Yes.

MS. DOA: I think some people are saying that they believe that certain types of releases are not releases, and we disagree and do not want to debate that in this setting.

MS. FERGUSON: It may not come up at this meeting, but I would hope that if we wanted to talk about the reauthorization of the Pollution Prevention Act and EPCRA and things that we would like to see in the system, that those kinds of things would be prospective in nature and not look like regulatory regimes would be. We just have to make that clear.

MS. DOA: I think that is fine.

MR. BROMLEY: Maria, what I would understand on that is that what the ground rules that this committee has been discussing all along is consistent with what you are saying. We have always said release, the definition of release, is off the table. We can play with how we categorize and change the form as to different characterizations of it, but it is still the same release. Is that consistent?

MS. DOA: It is still release.

MR. BROMLEY: Yes, okay.

**Agenda Item: Schedule of Future Meetings.**

MS. DOA: Anybody else? I will just quickly go through what the agenda looks like for today and then quickly talk a little bit about the future of the next meeting to make sure we are still okay with that date and everything and see if there are any issues there. I think we are probably going to be able to take care of these logistics/communication issues pretty quickly this morning and get right into the review of how EPA characterizes TRI data and the work that David and Susi Ferguson and Rick Reibstein and Tom Natan have done on putting together this paper on combined ideas for small group breakout sessions. Then we will go to a break and public comment. Then we will start out with the issue paper and issue number one around 11:00, we hope, and then at 11:30, we will go to the travel issue. Depending on what happens with that, we can either go back to issue one or go to lunch and then come back and continue issue one and do issues two and three this afternoon.

With regard to the future meeting, I have, on my agenda the 19th and 20th of March. I wanted to make sure that we were all —if there was anybody who had an issue with that date to see if we needed to revisit that at all. I hope not, but I would bring that up. Does anybody have any problems with March 19 and 20?

MR. SKERNOLIS: I believe it overlaps one day with the Industrial and Stakeholders Group on which I sit. This would hold priority for me.

MS. PRICE: Okay. If anybody has any other issues with the date, just talk to me before the end of the meeting so that we can try to figure out if we are going to need to get an alternate or anything like that and start to work on that process.

**Agenda Item: Meeting Summaries.**

The meeting summary is that we just, hopefully, finalized almost late yesterday the September meeting summary. What we are going to do is next week mail out to you the September meeting summary and a draft of the December meeting summary for your comments. With the December meeting summary, we are going to try to include copies of all of the proposals that were brought to the table at the last meeting like the options A and B that Susi presented and the option that Bob Steidel presented and make sure that we have all of that correct. Then that is what will be in the public record and we can make sure that all of those are on the table and make sure the one we have from Joan that we can then forward that to the appropriate other people at EPA as we discussed at the last meeting, wanting to be able to forward her idea for structuring all of the EPA information in one form. Does anybody have any questions or comments about that?

**Agenda Item: Briefly Review and Conclude Discussion Regarding How EPA Characterizes TRI Data.**

Okay. David, I think, has talked to Susi a little bit, and David and I have talked a little bit this morning about how to proceed on this combined idea for small group breakout sessions, so let's move to that and see what folks think about our approach and



see if we can go through some of this this morning.

MS. FERGUSON: Do we have copies of that this morning?

MS. PRICE: I do. I do not know if everybody got the email that I sent out, but I did bring extra copies.

MR. FEES: The next question is how many folks had a chance to read through this. It only came through on email probably two days before today. When did you send it out?

MS. PRICE: It was probably very early yesterday morning or late the day before, so I am not sure if everybody had a chance to get it before they left.

MR. FEES: I think with so few people having actually read through the recommendations that we put together based on the four group options. I think what we ought to do is to take each major recommendation. We have these larger issues, and you will see how it is formatted. There is a larger issue, a recommendation, and then sort of bullet points underneath the recommendation or under the major issue. We probably ought to take each issue, read through that, and then discuss that issue and the points underneath the recommendation for that issue.

Does everyone have a copy now? Why don't we take a few minutes, about five minutes to read through the first issue. It is far and away the largest issue or the largest number of suggestions and recommendations are underneath this issue. This is the date in context issue. Why don't you go ahead and read through that, and then we can discuss how we characterize the issue and then discuss the various points underneath the recommendation.

[Pause.]

MR. FEES: Has everyone had a chance to read the recommendations underneath that? We could start discussing that. I also want people to keep in mind that we have about an hour and a half for the total discussion on the recommendations, so I think we should —there are actually six different items. You will notice that the latter ones are smaller and have less items underneath them, but we should try to stay on track and not spend too much time on any one topic.

Does anyone have any comments on how the issue has been presented? It is basically taking —each of those numbers one through eight are various ideas of where the PDR sort of does not characterize TRI data as well as it could. They are rather disparate, and I tried to jam them —we tried to jam them all into one run-on sentence that says the data can be better put in context. Then you notice that there is also a bullet item underneath the recommendations, simply to address each of the numbered items in the issue. I would like to first open it up to the idea of the issue. Are these the issues that we felt need to be addressed in terms of putting data in context? Are there any maybe not articulated in the way that you anticipated?

MS. PRICE: You all did a good job.

[Laughter.]

MR. FEES: Tacit agreement or no one has gotten their coffee yet.

MR. SKERNOLIS: Ed Skernolis. If this is going to be a record of this, I think I would just like item six to be a little more clear. Maybe some optional language. Those reported amounts that are generated as a result of production versus managed as waste. I cannot quite draw the comparison between managed and generated clearly from this phrasing. Is the notion here generated as a result of production versus generated as a result of waste management?

MR. ORUM: Paul Orum. I think that the intent here was to distinguish those wastes that are generated by that facility versus those wastes that are managed by the facility but generated elsewhere, in other words received from off site.

MR. SKERNOLIS: I think we just need to make that clear.

MR. ORUM: To make it more clear.

MS. DOA: What words would make it more clear?

MR. FEES: Yes, I also need suggestions.

MR. SKERNOLIS: I thought his words were fine.

MR. ORUM: I think the terms that I have seen used are wastes generated on site versus wastes received from off site or from another facility.

MR. FEES: Changing just "originating from" to "received from". That is really the only change in the language. I am not sure that addresses Ed's concerns. I think what his concern is, he was looking at something of a subset of generated on site. You generate on site from your production on site, but you also generate on site from waste activity or waste that you brought from one site. I do agree with Paul that I think the intent was not to make the distinction between those amounts that are generated from production as far as waste generation. It is just generated on site and received from off site.

MR. SKERNOLIS: I think that could be made clear just by inserting the word "on site" after "generated" and inserting the word "off site" after "managed." That is a suggestion. Since you are a reporting facility anyway once you have a production activity that is generating TRI releases, all of the waste management activities on that facility are rolled up anyway, so you are not losing anything. The only distinction that we are making here are those off site activities which are exclusively for managing wastes but are not involved in a production process. Those two inserts, I think, make that clear. If that was consistent with what you were saying, Paul.

MR. FEES: I am starting to see what you mean, Ed. Number six under the issue, it is written differently than the number six under the recommendation. If you look at the bottom of the page, look at the recommendation. That is where I was looking at. I jumped right down to the recommendation.

MR. SKERNOLIS: Yes.

MR. FEES: I think number six under the recommendation is exactly what you are saying.

MR. SKERNOLIS: Yes.

MR. FEES: So, essentially what we need to do is just to make sure that the language in number six in the issue is saying what number six at the bottom is. Is that agreed?

MR. SKERNOLIS: I think we have it.

MS. FERGUSON: Just to confirm, those changes were inserting on the top issue, item six, those reported amounts generated on site as a result of production versus managed as received from off site or received off site for further waste management.

MR. ORUM: Received from off site.

MS. FERGUSON: For further waste management.

[Comment off microphone.]

MR. FEES: Joan, do you have a comment?

MS. FASSINGER: Joan Fassinger. Just a process question. Are these only clarifying questions at this point or comments on these?

MR. FEES: I think that we are trying to kind of work up the language here, comments as well as clarifying questions on the recommendations. I think we want to make some changes on these right now if it is not too laborious.

MS. FASSINGER: Okay. I had two points. On number four, developed with the assistance of the SAB, supplemental document with hazard data. As a lot of you know, there is a similar initiative going on through the sector facility indexing project, and there are some issues with the methodology. I think we need the full approval of the SAB to be able to provide —as a matter of fact, well, the AMA actually, believes that we have to have the science approved by the SAB in order to be able to apply that to TRI data. So, it is just a little different phrasing of this issue.

On number eight, I guess as a clarifying question on emphasizing national policy on source reduction by focusing as much on total waste generated, managed as releases. A question has come up with regard to whether that would be net waste. In other words, if you are recycling and it goes through. I know this is later in discussions, too. It goes through ten times, then should that be counted ten times or just once. So, just a couple minor phrasing questions on those.

MR. FEES: I think the thought there was dealing with how the total waste is determined now. For recycling, it is every pass. That would be considered total waste. Being something of the sum of 8.2 through 8.7 because that is what is managed because releases is then not managed.

MS. FERGUSON: David, I got a different thought when I read this from the original discussion. I thought the group that suggested this was thinking that if we recategorize how we present the information, there should be balance in how we present that publicly so that we continue to help support source reduction so it did not get quite as technical on how you report but just the concept of a balanced presentation of whatever categories you end up with.

MR. FEES: Yes, that is the concept. Now, Joan might have an issue with what are we choosing as total waste generated/managed, and I do agree with you, Susi, that it is the idea of the total waste picture compared to releases. I think the idea of waste generated on site and waste managed, that is an issue that we are going to be talking about today. I am not sure that needs to be completely defined in a recommendation like this to balance between wastes and releases. That is the concept that we are trying to achieve here. Unless anyone thinks that that should be more clarified and maybe suggests what that clarification could be here in this recommendation.

MS. FASSINGER: I think part of the issue with regard to that item is the press release and some of the issues that were brought up at the last meeting during the press release were the releases have gone down but the press release has stated that the waste generated has gone up. Depending on how you include recycling, that can skew those numbers tremendously. We can discuss that later, but I just wanted to point out that that item, there is a lot to that item besides what you see superficially.

MR. BROMLEY: David, if I may expand a little bit on what Joan talked about on number four. Both on the issues and in the recommendations, I think number four should go beyond just the variability of hazards and should be the variability of hazards, risks and exposure, chemical to chemical, and medium to medium, and possibly even site to site. Hazards, I think, was a little bit more narrow than what everybody was talking about, and then to expand upon what Joan said, on the recommendation, the last sentence should probably be put as the first sentence because I think that is what the groups were

talking about, to develop the science first and then go into, if you get the science, then be able to go in to putting out further data.

MR. FEES: Any comments on that? Paul.

MR. ORUM: Yes, specifically on that, I think that personally, I would like to see the basic matrix that says what the harm of the different chemicals are. I think it should be produced now not what I think would be never if you said this must be approved by the Science Advisory Board. I would have no problem with the changes that you are suggesting, but I think that the intent is to encourage EPA to produce those things. I think ten years ago, EPA had a contractor produce a basic matrix for each chemical where there was information on whether there was a hazard or not for a particular hazard like whether it was a carcinogen, a neurotoxin or what basically the problem was with that chemical. I just want to make sure that we are not suggesting that this has to be approved by the Science Advisory Board. I realize that is directly contrary to what Joan had said. Maybe it can recommend, as it says here, that it be developed with the assistance of but not make it a requirement to be so approved because in my view, that means that it will never happen.

MR. BROMLEY: I think —and Jon, I am sure, is going to respond. My point was more that, as you say, the hazards in the matrix and that is developed probably. There is information out there, but I think that is too limited, is that hazards alone is not enough information. The risks and exposure need to be coupled with that. If you just have hazards, I mean, salt is a hazard. Any chemical out there can be a hazard depending on the risk and exposure scenarios or the pathways that you have. So, I think limiting it just to hazards is an incomplete situation, and I think that does more harm than good if you just do that, and I think it needs to expand upon that. I think the second point, I think the science needs to be behind what gets presented first, before you present something. The science is what the underpinning is, so you cannot put the cart before the horse on that.

MR. ORUM: I would agree to the science, I would agree to the broadening of hazard to the need for information on risk, but if you say that you have to have all of this information on risk before you put any information out on hazards of particular chemicals, what I suspect will happen is that things will go along forever without basic tools being produced. That is my caution.

MS. PRICE: We are going to ask Neal here, our facilitator, to try to help us keep track of who has their cards up and try to make sure that we get everybody called on, so bear with us as we try —

MR. KOFFMAN: One of the facilitator's jobs is traffic cop. I am real good at that, so I will keep track of when your card goes up. I understand that like this means you want to talk. Okay, so —

PARTICIPANT: Except for Joan. She gets special privileges.

MR. KOFFMAN: Except for Joan. She does not get to talk.

[Laughter.]

Having said that, we are going to go to Joan Fassinger.

MS. FASSINGER: Just a real quick response. At the last meeting, we did have some recommendations on how to include some information on risk and exposure maybe putting some relative information in the TRI data release, and that perhaps would not require SAB approval. I do believe there are some recommendations on the record that could be carried through by EPA and that perhaps would provide a balance between our two issues. I will leave it at that.

MR. BROMLEY: If I can follow up on what I said also, I am not saying that necessarily —mine may be much more limited as more of a cautionary statement in the PDR and other information of saying that the data out there does not necessarily represent the hazards, risks and exposure, that you would need to go to additional databases or additional information sources to come to those conclusions and make that point very clearly that the numbers alone do not give the whole story. Large numbers or small numbers relative do not represent whether there is a risk or whether there is not a risk.

MR. FEES: Having heard the comments, I think we should probably leave that portion of the recommendation as is based on the comments.

MR. KOFFMAN: Are you going to look to me when you are ready to go to next?

MR. FEES: Yes, I am just wondering if there are a few more comments on this topic. The whole idea, if people put their cards up, they may be putting their cards up on a different item.

MR. KOFFMAN: Yes.

MR. FEES: We also can only take a few more comments on it because we have a number of items and another whole recommendation. Who has comments on number four?

MR. SKERNOLIS: Very quickly, I think it would be helpful if the record indicates that this is a longer-term project, not to be inconsistent with what Paul is saying but in terms of the comprehensive nature of what is being asked here. This is not going to be accomplished in time for the next and let that be very explicit in this. That is, I think, consistent with what Corey is saying, that is until that is completed, there are going to be limits on what EPA should say about that information and what the public should construe from that information until a lot of this work is done. That is not in any way intended to say information cannot be out there about the subject that yes, the chemical is a neurotoxin or something, but there might be broader things to say about that that cannot be said because this work is not yet completed.

MR. FEES: We had that in mind when we were going through this issue. When we say “develop this matrix,” we do not put a time frame on it. That last sentence, the reason the last sentence is last is because it was sort of the idea of continuing work and maybe the long-term word or something there can be interjected in that last sentence to indicate that there is this hazard matrix but going beyond that, you have exposure, risk and those sorts of things. That is the reason why that sentence was put at the end. Hopefully, you will understand that or maybe we need to maybe make a few clarifying points on that. Tom, do you have a point about that?

MR. NATAN: This is Tom Natan. I wanted to address Corey. I appreciate your comment. I think we tried to divide all of the recommendations into issues, and certainly your point about the relationship between exposure and risk also falls into other of the issues here. We did address the issue that there needs to be a clearer explanation of the links between exposure and risk. So, there were two ways of dividing all of this up. You could take everything, all of the suggestions, and put it by category. There is a risk category that is a ranking category. There are tables from the database category. You could go the other way, which was issues, and we chose to go toward the issues. So, some of the suggestions under the other issues would also, I think, address what it is that you are concerned about.

I also wanted to echo Ed’s point that there are a number of things that can be

done in the short term with regard to providing information on chemicals without getting into some of the things that need further clarification over the long term.

MR. FEES: Any other issues on number four?

MR. STEIDEL: Yes. On number four, again going back to the small group that I was in, I think we had equated similar ranking or similar weight to exposure, risk and hazard. I think they are all important and have to be taken together equally. For someone to use the PDR to make decisions with. I do not think that you can emphasize hazard over risk or risk over hazard or exposure. I do not read that concept in this recommendation.

Another thing that is missing, and I think that it falls into this same area, is again talking about the relationship between or the variance between mass of certain reported constituents. Some masses are reported with greater numbers and may have a less risk or less exposure or less of a hazard than some that are reported with smaller masses, too, and that concept was left out.

MR. GEISER: This is Ken Geiser. This conversation is wandering a little bit. I both understand the sentiment in it, and I just want to try to lay out my confusion as to what would be said if we did not say this. I think it sets a hazard matrix with a future orientation toward looking at exposure and risk, which makes sense to me. I understand how the agency could do a hazard matrix at this point. I do not understand how the agency could do a similar matrix or a similar comparative description on things like national exposure to substances or a national —comparative national risk kind of thing. It just seems to me, even though I understand why people might want that, it just seems to be beyond what could be done at this point. When I guess you were saying that it would be nice to see those things together, the temporal condition just seems so different that it is hard to assume you could do that.

MR. FEES: Any other comments on number four? Wilma, did you have a comment on number four?

MS. SUBRA: I did not.

MR. FEES: This has to be —did you have some other comment? Real quick.

MR. BROMLEY: If I understand what you said, Tom, you were just looking at a very narrow thing and just focusing in on the hazard matrix here as a subject that you were approaching on that. Is that what you were saying is that the other risks issues are in the other recommendations.

MR. NATAN: Take a look at recommendation or issue number three, recommendation number three, and then under that, number one, providing the data release, step by step questioning process of public need is determined if TRI data indicate a real problem, explain the need to put TRI mass numbers in the context of hazard and risk.

MR. BROMLEY: Okay.

MR. NATAN: That was actually the group one suggestion that Bob was talking about. It just happened to fall more naturally under —in order for the public to better understand TRI data and its uses. We thought that was where it belonged.

MR. BROMLEY: Okay, I just wanted to understand that, and I guess my comment is that it is still this one here, even if it is a narrow issue, still needs to have the linkage. It is not necessarily saying that it has to be information on exposure is given but the cautionary or explanation needs to be linked in there so that you have that matrix or whatever, the data that is out there, that it still has an informational linkage saying that this does not say that exposure or risk is evident. So, not necessarily having the information,

that is it.

MS. FERGUSON: From a process standpoint, David, why don't we take this and rewrite it. I would be happy to try to do that over lunch to capture —there is a lot of concern that has been expressed. Capturing that and capturing the different points may be a separate little sentence. I think that we can rewrite this to capture what we have heard. I do not know that what we have heard is inconsistent. There has been some desire to include a hazard matrix relative to the chemicals with the release, there is some desire to make sure that folks know that you cannot get an individual risk from that information, and that there is another desire that worked longer through time to develop the credible science. The group that the EPA could turn to on that is the Science Advisory Board for assistance. That kind of —and even that would take a longer period of time. All of that did not seem to be inconsistent with each other if we recapture the paragraph along that line, it would be more clear. I think the EPA, what the discussion was this morning and on risk and hazard, et cetera. Does that work?

MR. BROMLEY: Good summary.

MS. PRICE: We have some names here that people had their cards up.

MR. FEES: Let's move on to another topic under issue one.

MR. KOFFMAN: The queue that was already —I do not really know the order when I stood up, but I have it after that, so we are just going to start with Ken.

MR. GEISER: I guess the one that I am curious about and do not quite understand is number three, the economic land basis. I guess there is one piece of it which is the economic basis does not mean so much if it is just raw data that we are recording. It does certainly mean something if it is annualized or comparative over time, and it may mean something if it is comparative across geographic regions of the country or sectors. I am not sure how —is anyone clear on how to do this? What it is —I mean, we have the activity index or the production. Is that the only? This suggests more than that. I do not know who is promoting this, but can somebody speak to that?

MR. FEES: Yes, I think someone from that group might want to elaborate a little more, but we do think it is kind of short and kind of general, and we might need a little more elaboration.

MS. FERGUSON: This is item three? Ken, that was us.

[Laughter.]

So, if there is a better way to say that.

MR. GEISER: I was so excited about this!

[Laughter.]

MS. FERGUSON: So, if we did not capture —that was from our group, so if this does not capture it, I was trying to be succinct, maybe you could reword that a little broader for us.

MR. GEISER: Okay, can I try to do it somewhat generally and maybe get something to whoever is supposed to get this. I will work on it over lunch.

MR. FEES: Does anyone else have some comments on that one?

MS. FASSINGER: That also came up in our group, and I think what we were trying to do is we can come up with activity indexes for individual facilities or industry sectors but on the state-to-state comparison that did not work, and so we had asked if maybe the EPA could bring in some economic folks to try to come up with some options so that if the state has a large growth period and it appears that their waste numbers go up or releases, but they have grown twice as fast and maybe the releases have actually

gone down. So, we felt that especially on a statewide or national basis that an economic indicator would provide a better normalization factor.

MR. KOFFMAN: Okay, the next people in the queue, unless you are on this point.

MS. FERGUSON: I would like to respond. I think you have a couple of different things going on. I think relative to an individual company's report, maybe the sector productivity information is what we are talking about. I think that as we prepare the public information and release overall—for example, the State of Texas found it very useful to remind everybody that overall, TRI was declining but manufacturing in the state was up 20 percent. Those kind of general trends at a state level, when you wrap up the information for the state at a state level, were important to us. So, I think it depends on how you bundle the information, what you want to be putting together and explaining. The release is more than just the individual forms.

MR. KOFFMAN: Same point?

MR. SPRINKER: One point on this, too, is that if you are looking at—and I guess it may be important, too, to determine when you are talking about other economic factors, that it be—you may have a huge growth in the economy in an area that is totally unrelated to these facilities that are reporting. I guess I would not necessarily want to see growth in other areas used to say the total waste has gone down when reality is—relative to economic growth, where reality is that you have not had economic growth in that particular area, in the TRI reporting area.

MR. KOFFMAN: Okay, ready to move on to the next topic. We are going to go to the next speakers who will be Wilma, Victoria and Andy.

MS. SUBRA: I have a suggestion on recommendation number five. I would like to remove the word “ambient.”

MS. FERGUSON: I have a concern about that in light of how we are using the definition of releases for EPA since that is broad enough to mean everything. We need some sort of qualifier to distinguish within the releases different kinds of releases. So, maybe ambient is not the right one, but it was the closest that we could get to indicate the thought of the kinds of distinctions that our group was talking about.

MR. FEES: We have the “such as” air emissions, water discharges and some land releases are already listed there.

MS. FERGUSON: Okay.

MR. FEES: I do not have a problem about taking the word “ambient” out.

MS. SUBRA: You added the “such as.”

MR. FEES: The fact that the “such as” explains it.

MR. BROMLEY: How about putting the word “certain” and with the qualifiers. You have the parenthetical.

MR. FEES: I do not think that is really necessary. I say that we strike the word “ambient.” Does anyone have any problems about that?

MR. SKERNOLIS: Yes.

MS. FERGUSON: Yes.

[Laughter.]

Mr. SKERNOLIS: I would like to know what is wrong with it. That was my question. It is a term that has been used in environmental regulation, as far as I know, since about 1947. Everybody knows what it means. I just do not know why we would not want to use it on TRI.



MS. SUBRA: From the grass roots perspective, citizens understand when an agency says ambient air quality is what is there not what is right next to a facility, and then you compare what is coming out of the stack and how far out it makes an impact and that ambient is sort of like the general concentration around.

MR. KOFFMAN: I need to just give Maria an opportunity.

MS. DOA: If you pull the word “ambient,” you need to put another word in here, just on my ground rules on releases because if you take out the qualifier, it says “between releases to the environment and releases to land.” That is not acceptable.

MR. SKERNOLIS: I appreciate your point, Wilma. It is a term of art, which is actually part of my problem with TRI in general is whenever we are using terminology, depending on the audience, you have all kinds of concerns with how they are interpreting the data. I think for purposes of the recommendation as opposed to the way that EPA would present the information, I think it is appropriate to leave the word “ambient” in there because I think we all understand what this group was trying to say to EPA regarding the distinctions between water, air, soil and the like and a managed land disposal facility. I do not think the EPA necessarily has to use that same terminology throughout the PDR where it would lead to any kind of confusion. What I would recommend, if that is your concern, that we add that concern to the recommendation rather than simply dispose of the word “ambient” and suggest to EPA that they make it clear so that there is not confusion among the general public in terms of how to use that terminology.

MS. FASSINGER: Joan Fassinger, GM. I have a suggestion, Wilma. If we move the word “ambient” to before “the environment” so that it reads, “between releases to the ambient environment and releases to land.” Or another option would be to use the direct/indirect terminology. Would either one of those work for you? That is a little more controversial.

MS. SUBRA: Before “environment” is much better than where it is now.

[Comments off microphone.]

MS. FERGUSON: I think it can, though. Releases to the ambient environment versus releases to land maintains the distinction, I think, Maria, you were trying to keep with respect to releases or releases.

MS. FASSINGER: I like the “certain” that you guys talked about. Why don’t we just leave it at that and go on.

MS. DOA: You wanted to use “certain” to distinguish—if you want to distinguish, distinguish, but it needs to be releases to the environment, releases to the environment, releases to the environment.

MS. PRICE: We can take Ed’s suggestion where people do not quite like the way five is phrased, if we can note the disagreement with the language.

MS. FERGUSON: The possibility for confusion with the general public.

MS. PRICE: Right.

MR. FEES: How about we take out “to the environment” and say “between certain releases, i.e. air emissions, water discharges and some land releases and releases to land that are land disposal options.” So, you eliminate the “to the environment” which separates or distinguishes the term “release.”

MR. KOFFMAN: We have Samuel next.

MR. CHAMBERLAIN: I agree with Ed in terms of since the process started, we have had a difficulty in dealing with trying to clarify releases. There was a lot of discussion about ambient releases. I think leaving the term “ambient” in there is sufficient

enough to, I think, help the public understand, as you pointed out Wilma. I think somehow we need to leave that term in our definition. Or, I think as David may have suggested, if you cannot agree with where it goes, at least write a statement in there that clarifies our disagreement on that issue.

MR. FEES: Another way of doing it would be to say, “ambient releases to the environment and releases to the environment that are land disposal options.” There, you are using the consistent phrase “to the environment” which does not distinguish between —

MR. SKERNOLIS: The phrasing is wrong. It is release to the ambient environment. We are talking about ambient water and ambient air and not the release. It is the medium.

MS. SUBRA: Yes, that is where I have a problem.

MR. SKERNOLIS: So, we need to move it to make it clear that it is the medium which it is entering which is of concern, which is very consistent with how EPA is using terminology in section sites today, you know, which medium is it entering. I think people —and I do not say all people, but I think a lot of people understand the distinction between the air out there and the landfill in here as being two different things and that all we are trying to do is find a word that captures that thought without questioning the definition of release.

MR. KOFFMAN: Maria, I interrupted you? You had something to say?

MS. DOA: If you use the word “certain” and then maybe add a sentence to make your —if you wanted to further make your distinction. Everybody would be more comfortable. It is only the one thing.

MS. FASSINGER: Wilma, do you have another suggestion?

MS. SUBRA: No. I think if we move it so that we are not calling it ambient releases and we are calling it an ambient environment, that is fine. Maria said we needed a word before the word “release.”

MR. SKERNOLIS: Maria’s word “certain” but keep the words “ambient environment.”

MS. FASSINGER: That sounds good.

MR. FEES: Certain releases to ambient?

MR. SKERNOLIS: To the ambient environment. I do not think you need the word “certain” anymore, but if people feel strongly about it.

MR. FEES: You are just suggesting moving the word “ambient” from where it is to in front of “environment.”

MS. FERGUSON: Yes, and then we can put another sentence in that this does not intend to redefine releases for the purposes of EPA.

[Laughter.]

MR. SKERNOLIS: That is what I was —and also especially as a recommendation from NACEPT instructing EPA that we understand that further explanation might be necessary given the broad audience for the PDR.

MS. FERGUSON: Sure.

MR. FEES: So it seems like we are going to shuffle it around a little bit and probably add a little bit more language on that. Okay.

MR. KOFFMAN: Okay, so if we are moving on to the next issue, it is Victoria.

MS. SULLIVAN: Thank you. It is Vicki.

MR. KOFFMAN: Oh, sorry, Vicki. I did not see that.

MS. SULLIVAN: That is okay. On item one in the issue description, it says “other regulatory reporting.” If you look at item one in the recommendations, it talks about included under regulatory programs and the types of programs those programs collect. It seems to me, for consistency, I would like to see item one under the issue read, “other regulatory programs.” That is broader than just reporting.

MR. FEES: I have noted that change. If anyone has questions to that change. [Continuing after pause.] In other words, we will make that change.

MR. KOFFMAN: Okay, the final comment here for the people who had their names up would be Andy.

MR. COMAI: I get to talk now?

MR. KOFFMAN: If you are ready. Thank you for your patience.

MR. COMAI: I just wanted to go back to three and four quickly, if I could. I have seen some good papers on normalizing TRI release data by the number of jobs that the facility is —when you talk about economic indicators, the number of jobs at the plant is probably an important thing to look at. It is easily done.

On number four, anytime permissible exposure limits are mentioned, it should probably be mentioned in capital letters, and then you should also talk about threshold limit values which are lower and recommended exposure limits from NIOSH that are lower. So, anytime you are talking about the type of limits, those should be really clearly described that those are intended to look at the risk and hazard for a 170-pound white male, not necessarily children who might live downwind. In that sense, maybe the minimum risk levels from the ATSDR might be a better indicator of where they have been developed for chemical exposure.

MR. FEES: Does anyone from the group that put that language in there —

MS. FERGUSON: If I am rewriting that in a more general sense and we are saying the risk information needs to be developed with input from the Science Advisory Board, what kind of qualifier would you add to that, and further exposures need to be defined? We are rewriting this in a more general sense indicating parts of it need work to be developed in terms of the exposure area. We could add a sentence that care should be taken to assure, and I am looking for you to finish that sentence for me.

MR. COMAI: I guess if you start just with the words “permissible exposure limit,” and I may be wordsmithing. I would just eliminate that and various types of exposure limits instead of using the word “permissible.” I do not want to make it more specific; I would want to make it less specific.

MR. KOFFMAN: Vicki?

MS. SULLIVAN: I would just add a suggestion for less specific. Instead of PEL’s, which does have regulatory definition, something like dose response information or something general like that, or what you said.

MR. COMAI: I was thinking more along the hazcom. I mean, if there is a study that was done that says this stuff causes cancer, then according to the hazcom standard, that is supposed to show up on a material safety data sheet. You do not have to have a dose response. You do not have to have any kind of that information. You would just have the information that people need should indicate that there is a hazard to that chemical.

I guess responding, I wrote down something that Corey said that by giving people hazard information, you are doing more harm than good. I just do not agree with

that. What you are giving people is the tools that they need to respond and become involved, evaluate that chemical further and that exposure further.

MS. FERGUSON: So, if we rewrote that sentence relating it to the information that would be further developed and said the supplemental information should recognize bioaccumulation, persistence in the environment, the toxicity of various chemicals, identify exposure pathways, exposure limits and bioavailability, would that address your concern?

MR. FEES: Essentially, you have taken out the word “permissible” to make it a generic exposure.

MS. FERGUSON: Right, and whatever is credible science they can work up.

MR. FEES: Would that address your concerns?

MR. COMAI: I think putting a number on it is good because that number does indicate that there is some research behind it. So, are you eliminating all of —

MS. FERGUSON: Established exposure limits? That does not narrow it to one or the other.

MR. FEES: The verb is identifying, so identifying —right now, we have essentially identify permissible exposure limits.

MS. FERGUSON: I am going to rewrite —

MR. FEES: If you rewrite it to say identify, blah-blah-blah exposure limits and taking out the word “permissible,” then that is more general, and does that satisfy the concern that —

MS. FERGUSON: It does, but there is a concern that we recognize values where they have been established, so I think —

MR. FEES: You are identifying them in the supplemental —do you want the word “include” —

MS. FERGUSON: I perceive that Andy is saying there is a difference between an identified exposure limit and one that is established or a particular value for whatever reason. If “identified exposure limits” gets at your concern —I am not trying to put words in your mouth; I am just trying to understand and capture your thought.

MR. COMAI: I guess I would be happy if “permissible” were dropped and you had exposure limits and that were left to the —

MR. FEES: We are going to be working that one up anyway, so we probably need to make that change, too, and see how the group feels on that.

Okay, 45 minutes on issue one. We have 45 minutes for the remaining issues. Just to recap, I saw changes in issue number one, the actual description of issue number one, a change of number one, which was just changing regulatory reporting to regulatory programs; rewording number six to be similar in language to what the recommendation number six at the bottom of the page. Then I had number —under the recommendation, number three, four and five all needed work. One, no one had a comment on. Two, I think there was comment, but I did not really put an “X” as we need to change number two. Number six did not have any change. Seven, no change. Eight, we had some comment on, and I am not certain —we thought that that was going to sort of be —that that was okay as it is and that those more details of total waste generated/total waste managed would be addressed actually today, in our discussions today. So, three, four and five are the ones that we were going to be working on. To be clear on that

Okay, issue —yes.

MS. FASSINGER: On number eight, this is Joan Fassinger, GM. I would like

to just recommend that we maybe take the word “total” out just so that we can address the point of confusion since it is a generic statement.

MR. FEES: Okay. So, that makes a minor change on that one and see how the group feels on that. Issue number two.

MR. KOFFMAN: Do you want to target like ten minutes per remaining issue, and then we will be just five minutes after.

MR. FEES: Okay.

MR. KOFFMAN: So we are going to do that. We are going to target ten minutes per remaining issue for the five remaining issues, so it is now approximately ten to ten. We will do issue number two until 10:00. Ten minutes on issue number two. We are ready to go. If we do not need it, we do not have to take it. Yes, ma’am, go ahead.

MS. HARTMANN: Carolyn Hartmann, U.S. PIRG I guess I have a problem with our definition of pollution prevention does not include recycling, reuse or treatment. The way I read this, it would. So, I feel like we need to play around with this somewhat.

MR. FEES: Do you have any specific language changes?

MS. HARTMANN: Well.

MR. FEES: We could simply say, “provide in the PDR more information on source reduction, recycle/reuse and treatment efficiency.”

MS. HARTMANN: We could do that.

MR. FEES: Taking out that whole phrase from the words “information on pollution prevention successes including.” Does everyone understand?

PARTICIPANT: That is good.

MS. FERGUSON: Can we keep “successes” though?

MR. FEES: Okay, how about including -- or source reduction successes, keeping that word in, because that was a concept that I think people wanted. They wanted to see some sort of positive things there, so that kind of word was integral to that issue or that topic.

MR. GEISER: How about just “information on successes in source reduction, recycling and treatment.”?

MR. FEES: Okay.

MS. FERGUSON: Okay.

MR. KOFFMAN: Does that help you, Carolyn?

MS. HARTMANN: That does it.

MR. KOFFMAN: Okay, I have Wilma next.

MS. SUBRA: In item number two under the recommendation where the second sentence is further discussion, that where source reduction is very difficult, pollution control and sound waste management is an appropriate goal. I think “appropriate goal” is sort of overstating it, and I would just like to say that information will be provided on pollution control and sound waste management.

MR. FEES: read the sentence as you would envision it?

MS. SUBRA: Further discussion that where source reduction is very difficult, information on pollution control and sound waste management practices will be provided.

MR. KOFFMAN: Corey has a comment on this.

MR. BROMLEY: I think that was our group topic. I believe that was a key phraseology that we put in there. Where source reduction is either impossible or difficult, it was an appropriate goal to look at it. It is on the hierarchy of the pollution prevention. It just happens to be that it becomes an appropriate goal where source reduction is no

longer available to you. That is why that sentence was written that way.

MR. KOFFMAN: Thomas, comment on this?

MR. NATAN: When we put this together, we used the EPA definition of pollution prevention which is source reduction unless it is the environmental management hierarchy, so that was the reason for the wording that we had here. I do not know that — I appreciate Wilma's point, that the goal is really source reduction. I would tend to agree with her.

MS. FERGUSON: The group was trying to say something else. They are not negating source reduction but they are saying where you cannot do that or where it is difficult, you need to manage your things appropriately so they do not cause problems. Wilma's does not capture that latter thought. I mean, we would just have source reduction, but if you cannot, that does not give you any guidance as to what you should do where it is difficult.

MS. SUBRA: This is reporting information. It is still misleading. This is saying that if you cannot do one, then the appropriate goal is the other. I think it is just providing information on what the other alternatives are without saying that this is all okay to do it just this way and not the other way.

MR. KOFFMAN: Okay, time check. We have five minutes left on this one, and we have the big ones.

MS. SULLIVAN: I think that perhaps the problem is with the word "goal." Is that your problem?

MS. SUBRA: Yes.

MS. SULLIVAN: An appropriate option.

MS. SUBRA: Option.

MR. BROMLEY: Or just saying "is appropriate."

MS. SUBRA: This is going to be providing information. You do not have to say that the information that you are going to be providing meets an appropriate goal, just you are going to be providing the information on this aspect.

MS. SULLIVAN: I guess to respond to that, the first part of that sentence implies that source reduction — that there is going to be a discussion of source reduction being a goal. It is implied. You are saying if something gets source reduced, then they have other options. So, you have implied that there is a goal of source reduction. That is not just data. That is a value judgment.

MR. FEES: If I may interject. I do not think that we were looking at data. I think this is more textual explanation that was going to be in the PDR to describe —

MS. SUBRA: Then you need an explanation of how you determined that this was an appropriate goal.

MR. FEES: I think the statement is general, so I am not sure if —

MS. FERGUSON: Let me try. What if instead of "appropriate" you said "needed or necessary" so that, "further discuss that where source reduction is very difficult, pollution control and sound waste management is needed." I am thinking of the end of the pipe industries that have been pulled into TRI now. It is hard for Ed's guys, who are getting everybody else's garbage, to reduce the garbage they are getting. That is what they get. Pointing out those kinds of contexts for the report would be appropriate and could be done in a textual context.

MS. SULLIVAN: "As needed" is fine, much better than —

MR. FEES: As needed. How does that sit with the group in terms of does that

change, adversely change it for the folks who want this statement? Okay. Any other comments on issue two, recommendations? We have a few minutes.

MR. KOFFMAN: We are a minute and a half ahead of time.

MR. FEES: Great. Let's go to issue three. It has four bullet items. That probably will take a little longer.

Mr. KOFFMAN: We will try to keep it to ten minutes again. I will let you know where we stand. The floor is open for issue three.

MR. ORUM: Paul Orum. I will raise a point on issue three itself. This is the only thing in the entire set that —I think we did generally a very good job of putting these together. This is the only one that has material that really gives me heartburn here, and that is the phrase, "the appropriate uses of TRI data." I have heard EPA say many times that they understand that the purpose of the right to know law is to let people draw conclusions that are in fact different from those that are drawn by EPA. I think it is also very patronizing and paternalistic to say EPA will tell people what is appropriate and not something that many people would respond well to.

I would suggest, though, that some of the other stuff, you do need better ways to determine if the available information is of particular concern. I would suggest that this would be better, just take out the "appropriate uses of the TRI data." Just take out that piece and leave the rest.

MR. KOFFMAN: Do we have comments on Paul's comment or do you want to go on?

MR. BROMLEY: Yes.

MR. KOFFMAN: Go ahead, Corey.

MR. BROMLEY: How about a suggestion of instruct the public on the inappropriate use —

[Laughter.]

-- because of the things that I think the group can, most of us can pretty much agree there has been inappropriate use of it on certain headlines, et cetera, et cetera, where if used not in context, not in the things that we have discussed in the first couple of issues.

MR. ORUM: Well, what I think is of most value here is to help people figure out if particular releases are of concern to them as an individual or a community. I think there would be a huge range of opinion as to what is inappropriate and believe that EPA would have a really hard time doing that.

MR. KOFFMAN: I have comments on this point. I have Robert, Joan and Edmund. So, Robert.

MR. STEIDEL: It is Bob Steidel. I agree with Paul. I thought the purpose of what we were trying to present here was just to give the public, that is our base client, the ability to use this data. We were not going to try to tell them one way or another. In fact, in number one, it says that the TRI data indicates a real problem. Again, let's just give them the data, give whoever the client is who is going to use this, and let them indicate whether it is a problem or not. I do not think it is the public that is misusing the data; the inappropriate use of the data comes from another level of people who use this data, whether it be the press or whether it be a group that has an interest in using this data. Those are the ones that I think we have to instruct above and beyond the public as to what is inappropriate.

MR. BROMLEY: I agree with that distinction. The inappropriateness, I

think we can come up with examples of inappropriate use of the data. It is more in the press and more in the media type situation where the inappropriate use seems to come out. I do not necessarily say that the public is doing it. I think that instruction is very important, to have examples of where that data was misused such as where the press points out saying that X, Y and Z are the top three and they need to be looked at for enforcement. That is an incorrect statement. They may be in full compliance with all of their permits and all of their source reduction goals and everything else, but that statement saying that just because they are still the largest needs enforcement is an incorrect statement. Those are the types of things that I think inappropriate use needs to be instructed but not to the public necessarily.

MR. KOFFMAN: I apologize, Paul. I am going to try to keep this in order because I have people. Everyone here is on the same point, so I understand the dialog and you might want to respond, but what I need to do is go to Joan because she may have something. The same topic, right, Joan?

MS. FASSINGER: Yes.

MR. KOFFMAN: Okay, go ahead.

MS. FASSINGER: Joan Fassinger, GM.

MR. KOFFMAN: We will get back to you, Paul.

MS. FASSINGER: Your issue is with the issue statement, correct?

MR. ORUM: Issue number three.

MS. FASSINGER: Three, the issue statement. The points raised by Corey, I also believe that there is inappropriate use and that EPA should put out some kind of guidance. A suggested modification to the sentence is, The press release of PDR do not adequately include appropriate guidance for uses of the TRI data which, again, we are provided guidance as reporters on how to report. We feel very strongly that there also should be some guidance put out by EPA on how the data should be used but not a dictate or anything like that but similar to TRI instructions for reporters. Would that change provide the flexibility you want to be able to use the data?

MR. BROMLEY: Am I up?

MR. KOFFMAN: If someone addresses a question to you, I see no option but to let you answer it.

[Laughter.]

MR. ORUM: No, it would not. I do not like the word “appropriate.” Consider this example. A company says, we reduced our toxic releases 42 percent since 1992. Okay. They have put all of these chemicals into the products where it is eventually released or did they shift it to other chemicals that are toxic but not reportable under TRI, is there nothing known about the chemicals that they use. Okay, was that an inappropriate use of the information by that company. In my view, it could be a little contextual but ultimately, yes. So, I think there is just a tremendous range of uses here, and I do not think you can put on the right to know law the gloss of what is appropriate or inappropriate announced by —I still think what is valuable here is a better way for people to determine if it is of concern to them, so some steps that they can go through.

MS. FASSINGER: Maybe then if we said, “The press release and PDR do not provide adequate guidance for use.” I think the issue is that right now there is no guidance on how the information can be used.

MR. BROMLEY: I would just —what I would do is do not adequately instruct or do not provide adequate guidance is sort of a negative statement. I would say



“should help provide the public with ways to determine if a release is of particular concern.” I would make it a positive statement.

MS. FASSINGER: I think that is in the recommendations.

MS. FERGUSON: If we include that, maybe a further one that gets at Joan’s concern is leaving off “positively” like you have said relative to how to determine if it is a problem and then the limits of the information itself, which I think gets at the concern I hear on the other side of the table that has a little different connotation than appropriate use or not. The information has some limitations in terms of what it is and where it comes from.

MR. SKERNOLIS: Yes, I think we are focusing.

MR. KOFFMAN: Yes, I think, Susan, you did sneak that one in.

MR. SKERNOLIS: I think we are focusing.

[Laughter.]

MR. KOFFMAN: We are up to Edmund here.

MR. SKERNOLIS: I totally agree with you, Paul. I think the word “appropriate” the way it is used here is wildly subjective and should not be in this recommendation. I think the pointer of what was—at least I thought we were trying to get across in the group sessions from last session is actually recommendation number four, which is what does EPA say about the data and its qualifications and limitations. It cannot—we all agree, there is no dictate going out as to what the press can say, how any member of the public wants to construe any information. EPA is scientific information. They employ a lot of scientists and chemists, and they can say things scientifically about that information that appropriately qualifies it. It does not say how it can be used; it simply says how the EPA considers this information. That is done all of the time by a regulatory agency.

I mentioned before that I would like EPA to go and look at what groups like FDA, for example, say about drugs when they release information. It is entirely appropriate for EPA to say the same thing about chemicals and the environment if they have a scientific basis for doing it. Those are appropriate qualifiers for the agency, not for your interpretation. That is all I have.

MR. KOFFMAN: I just want to do a process check with you. we have three minutes left for this topic and the queue is Thomas, David, Corey, Paul, Mike and Carolyn.

[Simultaneous conversation.]

MR. KOFFMAN: Thomas is down then and we are on to David.

MR. FEES: Press release and PDR should provide guidance on the uses of the TRI data, blah-blah-blah. Read that again. I took out the “do not adequately” because there seemed to be some concern about the negative side. Of course, I took out “the appropriate.” I think that part of it we have sort of more or less agreed on, that the word “appropriate” is already out of there. The press release and PDR should provide guidance on the uses of the TRI data or on how to determine if the available information is of particular concern to an individual or community.

PARTICIPANT: Where is he?

PARTICIPANT: He is look at number three right here.

MR. FEES: I am looking at the actual issue, the bold issue. Does that capture?

MR. BROMLEY: I would add one additional thing, the use of the

statement —

MR. FEES: Let's let them respond on that.

MR. ORUM: My opinion is that guidance on uses of the data is just presented in the success stories that we talked about in an earlier section. You give examples of how data was successfully used. Again, I would simply say here that the PDR should help provide the public ways to determine if this release or information is of particular concern. I think that is what is valuable. People do need some guidance on the ways that they can find out more.

MR. FEES: Granted, if you look at the individual recommendations, they are meant to improve that. I guess what is not said and what was wanted in the recommendations from other individuals, from maybe, I think, more than one group, was the idea that there are inappropriate uses and how to address that.

MS. FERGUSON: Let me suggest another wording.

MR. KOFFMAN: I have a queue here that I am concerned about. We only have one minute left. I apologize for interrupting. David, do you want to —

MR. FEES: I am finished on that.

MR. KOFFMAN: Can you hold it, Susan? All right. We have Corey, Mike, Carolyn and Vicki. Corey.

MR. BROMLEY: I guess going on what David is talking about, I do not mind what his change is. I would just add in on the uses and limitations of the TRI data, again, as to point out consistent with EPA statements that this data alone does not provide information on exposure, on risk, on other things, and they themselves and/or the public should not be using it as a risk base data source, that they need to address the concern beyond just that data to other sources. There should be guidance on that saying that there are other sources that you need to combine this data with to come up with those issues, whether it is a problem, whether it is not a problem but this database itself is not to be a risk-based database.

MR. KOFFMAN: Just a process check because we have exhausted our time on this one. Do you want to go ahead and take another two minutes on it or move on to the next one and come back?

MR. FEES: As the chair, I want to say something on the issue.

MR. KOFFMAN: He is the chair; I have to let him go.

MR. FEES: I think that we have made some headway on the wording of this, but I think that we are going to need to work on that. Quickly, the actual items in the recommendation, which are specific ways for people to use the data, are there any issues there? Any concerns on those? I think we need to address that and work at a later date on the issue language.

MR. KOFFMAN: Vicki has something that she wants to say right on that, is that correct, Vicki?

MS. SULLIVAN: The reason my card is up is that I had some issues with some of the recommendations. I was not sure if we are moving to that now.

MS. KOFFMAN: I just saw you waving your card.

MR. FEES: I would like to spend five minutes on that and get off of the language of the issue.

MR. SKERNOLIS: My response to that is if essentially the basic concept that we were trying to establish under item four as a reflection of this appropriate use thing, and if Paul does not have a problem with that, I do not have a problem with the —

[Simultaneous discussion.]

MR. FEES: The recommendation of item four.

MR. SKERNOLIS: Item four under recommendation number three. In other words, that is what I was focusing on. I think Paul is right about appropriate uses, but I did not want him being weighing the appropriate uses to mean item four is no longer valid. I just wanted to make the connection between the recommendation and the issue in that one.

MR. KOFFMAN: I just want to know how you all want to proceed because we have exhausted our time for this. We can go however you want; it is your choice. I hear David suggesting five minutes on what, David?

MR. FEES: On the recommendations.

MR. KOFFMAN: Recommendations rather than the language.

MR. FEES: Susan. She has crafted —

MS. KOFFMAN: I have some language that may solve the issue if you all want to hear it. I think if it gets to people's concerns, then we can leave the issue and go on.

MR. FEES: We will take five minutes on that according to what I understand how you want to proceed, David.

MR. FEES: Yes.

MR. KOFFMAN: Okay.

MS. FERGUSON: That would be to rewrite it such that it says, "The press release and PDR should assist the public in understanding the limits of the information and how to determine if the available information is of particular concern to them." Does that capture everybody?

MR. FEES: Yes.

MS. FASSINGER: Good job.

[Comments off microphone.]

DR. BORDACS: Could you repeat that? It is, "The press release and PDR should assist" —and you said, eliminate the public?

MS. FERGUSON: Should assist in understanding the limits of the information and how to determine if the available information is of particular concern to an individual or community.

MS. KOFFMAN: Vicki and Carolyn still had their cards up. If that handles that, we will go on to Vicki.

MS. SULLIVAN: I have really a suggestion and then a question. The suggestion is in item four, there are four sentences. I think in the last, item four at the bottom of this page under issue number three. I guess it is called recommendation number four. There are four sentences. The last two, to me, seem to be a different thought than the first two. It is really talking about the Canadian model and how the EPA should include information that the facilities provide. I would like that to be a separate recommendation from item four; that would be item five. Do you want me to ask my question now?

MR. KOFFMAN: Carolyn, you still have a comment, too.

MS. HARTMANN: It is related to number four, but it is different. I think the statement, "EPA should avoid using TRI information as a political tool," I do not think we could agree on what that would possibly mean. I like the idea of putting in for —as Ed suggested, this is the place to provide a list of things that help the public to better

understand the data, but I do not think that statement --it is so wildly subjective, I do not think that it is helpful.

MR. FEES: I have comments from those who did include that, because it is admittedly different.

MR. NATAN: I think that was actually Ed's suggestion.

[Laughter.]

MS. FERGUSON: We have reworded it for him so that it was not perceived as negative.

[Laughter.]

MR. SKERNOLIS: I think I may have made the comment something along those lines at the last meeting. It was more reflective of the press release and not of the PDR.

MS. FERGUSON: Right.

MR. SKERNOLIS: I think we are talking about primarily here what I consider to be the technical document of the PDR, not the coloring that is put on it by the press office. My concern here is that the press statement would go outside the bounds of scientific rigor of what the information, from a scientific standpoint, says, not how you want to interpret it. You can interpret it any way you want, but the scientists who are presenting this information understand its limits, and they ought to say that, and the press release should not say something differently from the same agency. That is my only point.

MR. KOFFMAN: I just need to do a time check because we have exhausted our time for this one. We have three more to do. If we give them each three minutes — I mean ten minutes, then we are going to be through our break, so we would be running 15 minutes behind. Is that how we want to proceed? Give each of the next three ten minutes?

MR. FEES: We will extend an extra five minutes into the break.

MR. KOFFMAN: If we have 3 and we have 20 minutes, we will do about 6 minutes on each. We will just have to stay right with that time.

MS. FERGUSON: If we substitute Ed's last sentence for that sentence, Carolyn, does that —

MS. HARTMANN: Yes, I mean, I sort of thought that the first sentence got at what Ed's big point was here. I mean, I think to say emissions have come down 40 percent has huge political implications, and we, I think, would all agree that is a fact that should be put out there. I think the more important part is the first sentence there, and I do not know how we control the other part.

MR. SKERNOLIS: If the scientists say that these numbers might be off by a factor of 100 percent, saying they have declined 40 percent as a real number is scientifically wrong, and one should not be making a political statement. You see what I mean? I am exaggerating for effect here, but that is the kind of thing that I think needs to be brought out. When you read the press release versus what we understand to be, for example, the validity and comprehensiveness of this information, there is a departure point that I am uncomfortable with in terms of what the agency is going to publish. That is all that I am saying.

MS. FERGUSON: I guess that I would add the clause, "and the press release should not say something differently" to the first sentence and delete what is written there as the second sentence to capture that.

MR. KOFFMAN: Okay, that is the final word on —

MR. FEES: Yes, we are going to work on number four, I think we understand that that needs work. I think people should look, when they have a chance, at one, two and three just to make sure —not now because we are moving on, but make sure that you are okay with those.

MR. KOFFMAN: We are going to take five minutes for each of the next three, and I am going to hold you right to the five minutes because we do not have any choice.

MR. FEES: Issue number four.

MR. ORUM: Yes, number four.

MR. KOFFMAN: Comments on number four. Okay, number five. I am kidding. Number four still. Yes, Paul.

MR. ORUM: Paul Orum. On number four, number four subissue two there. I just want to point out that EPA does have an established point of contact intended to provide information to the public, that is the TRIUS hotline, the toxics release inventory user support line.

MS. FERGUSON: Promote?

MR. ORUM: Adequately fund or something like that. I do not know what the word is. I just want to point out that there is one and hope that that is reflected when this is final and done.

MR. KOFFMAN: Other comments on number four? Yes, ma'am. Joan.

MS. FASSINGER: Joan Fassinger, GM. On the first item under recommendation four, we do not have an issue with an easy to use, accessible program, but again, based on some of the earlier points, that program should include some of the items discussed in recommendation three as far as limitations of the data and caveats for use. So, I would recommend that we just put in a couple of words to provide that additional resource of information.

MR. KOFFMAN: Michael.

MR. ECK: Under the recommendations, number one has written what seems to me to be a request for that program EPA has already developed, the TRI indicator, which is software. I do not know if you are familiar with that. My question would be, is that what was intended?

MR. ORUM: I do not think so. This was our group. I think that what was intended was, maybe I am wrong, not just TRI indicators but a variety of other rankings. The idea was if you shifted some of these rankings from the press release to something that people could request and create on their own, it changed the impact, the emphasis that was put on that ranking. Since some people were raising a lot of concerns about different rankings, that was a way of allowing people to do rankings and have a lot of that happen without having EPA's stamp on it necessarily.

MR. BROMLEY: That is exactly right.

MR. KOFFMAN: We have two minutes on this one.

MR. BROMLEY: There was a lot of discussion on who should be doing ranking and disagreement that the EPA should not be doing ranking. This was the solution saying that if the ranking is not out there, then the public ought to be able to easily access information to do their own rankings.

MR. ORUM: Have confidence in it, yes.

MR. BROMLEY: Yes.

MR. KOFFMAN: We have another minute here. If that is it, we can move on

to the next one. This is on the next one, Wilma?

MS. SUBRA: Five.

MR. KOFFMAN: Great! Any final comments on four?

[No response.]

MR. KOFFMAN: Good. Now let's move on to five. Wilma.

MS. SUBRA: It is still the ranking issue. When EPA puts out the ranking and as they did the last time, it was not in their data report but was in the press release where they ranked not only states but they ranked counties or parishes and then some facilities. I think it is important from the citizen's perspective to have access to that ranking in an easy manner. I mean, a lot of them do not have computers and do not know how to manipulate data. Those who can get into RTK Net can pull up what facilities in their community but they cannot begin to do a ranking. So, it is really important from the citizen's perspective to have the ability to get those rankings then knowing that they are going to move to the next step and naturally start looking at the facilities and looking at what chemicals are emitted and into what media they are emitted. So, I do not want to lose that.

MR. FEES: At the end of —actually, recommendation number 4.1, at the end of the statement, you have the “or by request to EPA.” That was to allow folks who cannot access an actual program, computer program, to request it of the EPA.

MS. SUBRA: Will it be available from the EPA or will EPA then say, we did not do the ranking because this committee said not to?

MR. FEES: The idea is that the individual can suggest what ranking he or she wants in this easy-to-use, easily accessible program/system which can be requested of the EPA to create that for them.

MR. KOFFMAN: Vicki.

MS. SULLIVAN: I would prefer the discussion of ranking to go on.

MR. KOFFMAN: Anything else on ranking?

[No response.]

MS. SULLIVAN: Okay.

[Laughter.]

MR. KOFFMAN: Vicki.

MS. SULLIVAN: I just wanted to make sure that I was not going to interrupt. This is kind of a similar comment. On item two under recommendation five, the first sentence says, “Perform rankings using normalized data and appropriate qualifiers.” I think that is one thing. I think the second sentence should be separate, “Include input from highly-impacted facilities.” I think that is a separate thing that should have its own number.

MR. KOFFMAN: Carolyn?

MS. HARTMANN: Under recommendation five, number one, I am not comfortable with the language that says, “avoid cross sector rankings.” I think there are instances when that is important. I think it is fine to have, again, the language that is in number two with appropriate qualifiers, but I am not comfortable with this “avoid” language here.

PARTICIPANT: Why?

MR. KOFFMAN: Anyone else?

PARTICIPANT: Why?

MS. HARTMANN: I think it is important for the public and policy makers to

be able to prioritize where we put resources, where are the greatest sources of pollution, and to do that, it is important to look across sectors.

PARTICIPANT: [Comment off microphone.]

MS. HARTMANN: I think that is something that is important to us, so I do not feel comfortable having EPA direct that they should avoid that.

MR. KOFFMAN: Corey?

MR. BROMLEY: I guess this goes back to the earlier discussion on a couple of the other issues is the limitations on the use of this data. To provide resources to — EPA to provide resources toward areas just because they are top ranked is inappropriate. There is so much more that needs to go into that calculus of figuring out whether resources need to be applied to a top-ranked company or not. A top-ranked company, just because it has large numbers, does not mean that there is a problem out there. In fact, a company that has small numbers may have much more of a risk or exposure situation than a top-ranked company. So, that is the whole situation that we were trying to address here saying that the limitations on the use of this data and the ranking is inappropriate in that it does not give that connection or link to the risk and exposure and pathways situation. This is raw data that says, yes, there are releases out there. Now, you need to go on further and figure out what really those releases mean. I think the ranking by or across sector or across media often confuses the issue rather than anything else.

MR. KOFFMAN: Okay, we have —

MR. BROMLEY: That is kind of the thinking behind some of that proposal.

MR. KOFFMAN: We have two minutes left, and we have Susan, Bob, Joan.

MS. FERGUSON: The only thing that I was going to point out is we are still talking about the public data release in terms of what is prepared in a company staff. We have noted that there is a dispute as to whether or not ranking should be included in that, that the group was divided. This would be if you do include rankings with the public data release, should there be any limitations to that. I do not know if you view that differently versus if you were going to target or use the information as EPA or as a state for other purposes.

MS. HARTMANN: I think we have a fundamental disagreement here. I hear what other people are saying, but I just disagree in terms —you know, there are different uses. Certainly an organization like ours might choose to do additional rankings, but I think it is helpful if the EPA is playing a role where they look across sector, look across media, but I think that it is fine if they include appropriate limitations or discussions. I am not opposed to that. It may be that we just disagree here.

MR. KOFFMAN: I have Bob, Joan and Andy with about 30 seconds each. So, Bob.

MR. STEIDEL: I just wanted to echo what Susi just said and just add on top of that, again, this is not the PDR, and the PDR client is the public, so we are trying to — I think we only could agree on rank by sector and by media and stop there. The rest of us who can use the data will have to use it at an additional level but not in the PDR.

MS. FASSINGER: I would perhaps like to recommend based on the points made that we combine number one and number two and just say, “Perform rankings using normalized data and appropriate qualifiers,” and just leave out number one and then also include states, include impact from highly impacted facilities, sectors and states in a cooperative approach to explain.

MR. KOFFMAN: I have Andy and then you, Paul, and I will give you 15

seconds at the end.

MR. COMAI: I agree with Joan to eliminate number one. I think it is very important to do cross-sector ranking. If you want me to explain, I will explain.

MR. KOFFMAN: Can you do it in 15 seconds?

MR. COMAI: If you are painting a refrigerator, you are painting a car, you are still painting something, and TRI releases are going to tell you whose painting is better. I think it is also important to do chemical rankings as well.

MR. KOFFMAN: The final comment on this one to Paul, and then we have to move on to the last one.

MR. ORUM: We need to remember that some of these rankings were driven by what the press expects and requests. Certainly, some people in a given state are going to ask what is up with this state compared to others. That, of course, is across sector.

MR. KOFFMAN: Great. We have the final one here. We will take five minutes on it. If we finish sooner, we can certainly come back to the last one if there is more to be said. I get the sort of sense that there is a little bit more, but I appreciate you all being so willing to try to keep to the schedule. The final issue, number six. Susan.

MS. FERGUSON: This group had a slightly different take on the whole process than the other three groups. The question I would have is if the other recommendations make sense, do we still need to keep this at all or should we just delete it. I would like the group maybe to focus on that. As I understood what they were saying, they were saying we do not think that we can really impact the PDR right now, maybe through time, through a different tool, and I think we have already discussed a lot of different ways to improve the PDR. So, I would suggest that we delete number six.

DR. BORDACS: If you read through all of the recommendations.

MS. FERGUSON: Right.

DR. BORDACS: It completely contradicts the whole previous three pages.

MS. FERGUSON: The specifics of the recommendation had a lot of the same elements that we talked about already in the upper part of the recommendations.

MR. KOFFMAN: Second? Vicki?

MS. SULLIVAN: I agree with Susan. I would hate to have to lose anything above that if EPA said, oh, well, we have no alternative with number six.

[Laughter.]

MR. KOFFMAN: Corey?

MR. BROMLEY: Not on this issue. I will wait for the next.

MR. KOFFMAN: Anyone after Vicki on this issue.

MS. FERGUSON: Or anyone disagree with deleting it?

MR. FEES: Right. It sounds like were leaning towards attacking, quote, the problem head on, that is the PDR and address things in the PDR and not sort of in a way skirt around the issue by leaving the PDR alone and doing a separate analytical tool. Any thoughts on taking that out? Joan?

MS. FASSINGER: I think number six still gets to some of the long-term goals. Maybe we should not say alternative but maybe we could say over the longer term we have discussed or we have talked about combining TRI data with other data through the information management initiatives. So, as that goes forward, we may not need to make all of the changes in the PDR, but it could be done through other means. Maybe we could just rephrase that to indicate that —

MS. FERGUSON: Or perhaps a lead-in paragraph up front when we discuss



presenting the information that some of them can be done fairly quickly, some of them require longer terms and may need to be combined with other projects the agency is doing.

MS. FASSINGER: That would be fine, just so that we do not lock out that option.

MR. KOFFMAN: Okay, Corey, you had some other comment?

MR. BROMLEY: I was going to go back to number five.

MR. KOFFMAN: Okay, let's hold up and see if we are finished with six. Okay. We have a couple of minutes. We said that we were going to end at 10:35, so we are going to go back to number five. Is that where you are, Corey? Okay, so we will take two minutes on number five.

MR. BROMLEY: I guess I would give a new suggestion on number five, maybe strike number one and put in there, maybe to paraphrase what Carolyn was talking about to say that we do not agree or the group does not agree on whether ranking should be in or done by EPA or not, but that if ranking is done after EPA evaluates the various positions, then it should be provided with appropriate limitations or explanations of what ranking does for you. I am not sure if that paraphrases somewhat what you were saying Carolyn or not, but that would be my proposal, just to maybe make clear that there is a definite difference on whether ranking is appropriate or not and that if it is done then limitations need to be put on it, appropriate limitations.

MR. KOFFMAN: Samuel?

MR. CHAMBERLAIN: Corey, I think that might be clarified just in the statement of the issue, that we do have different views.

MR. BROMLEY: You are right.

MS. HARTMANN: Yes.

MR. CHAMBERLAIN: I think some suggestions that I think Andy made earlier about some modifications to number two might help with qualifiers and limitations. I think we might have addressed that concern.

MS. HARTMANN: I know.

MR. KOFFMAN: Carolyn?

MS. HARTMANN: Just to complicate things.

MR. KOFFMAN: Thank you, Carolyn. It is going to be a one minute complication.

MS. HARTMANN: Yes. I think the latter response is the one that I am more comfortable with. As I read the issue, I guess I am not that comfortable with the second part of the clause, "it was generally accepted that several of the current rankings are too broad in scope." I am comfortable saying that the committee had disparate views on the concept of ranking from eliminating ranking to enhancing them, period, and then if the language of one and two is sort of combined to say there should be appropriate qualifiers.

MR. ORUM: I want to specifically agree with that suggestion.

MR. KOFFMAN: We have 30 seconds, folks.

MR. FEES: That is that the second part of the issue statement is what you —

MR. ORUM: Yes. It comes out, but you add in what Corey was talking about, the limitations, because that is really much better guidance to EPA, more specific.

MR. BROMLEY: We are making recommendations to EPA.

MS. FASSINGER: Can we rephrase that?

MR. KOFFMAN: Mike.

MR. SPRINKER: Guys wanted to agree with Paul and Carolyn on this one,

too, because there are times when you want to use those broad measures.

MR. KOFFMAN: Joan, the final comment to you. You have 15 seconds, and then we are going to take a break.

MS. FASSINGER: Joan Fassinger, GM. I would just request a rephrasing then of what the issue is and recommendation.

MS. FERGUSON: We might want to be more specific and bring the dispute on cross sector and cross media up in our discussion, and the views ranged from including and not including to do you do it by cross sector or not do it by cross sector.

MR. FEES: Have that in the issue statement —

MS. FERGUSON: Right.

MR. FEES: -- because the issue statement is where we are claiming —

MS. FERGUSON: We do not agree.

MR. FEES: -- where we do not agree. The items underneath the recommendation we are trying to get some general consensus.

MS. FERGUSON: If you are going to do ranking, you need to consider the following kind of issues.

MR. KOFFMAN: Okay, folks.

MR. FEES: We want to wrap this up. I think obviously that some of these need work, and hopefully between Tom, Susan and I, that we can kind of get some of those ideas in there, maybe with the help of some others if we jotted your name down next to an item. We are going to have to work these over and get them back to you; I am not sure if it is going to happen before the end of this meeting or afterward. At some point, we are going to have to take these recommendations, and you are going to have to say as an individual, I agree with this; I do not. Understanding that, there is no way that you are going to agree with every single one of them because it is a collective group. We have to flesh out then which ones have a good majority and which ones have not so many people supporting.

MS. FERGUSON: And state the disagreement.

MR. FEES: Then state that.

MR. KOFFMAN: Final comment. Thank you.

MS. HARTMANN: I have an important request that any future reiterations of this say draft or work in progress or something like that. I do not think that any of us are comfortable with the history reflecting that this is recommendations of waste for EPA.

MR. FEES: That was the title that Susan had put on it when she gave it to me, and I worked up actually the —

MS. HARTMANN: It is great work.

MS. FERGUSON: If I put the draft watermark, then it does not fax, so I am figuring other ways to do that electronically.

MR. FEES: I made another copy that has draft on it that I brought here today.

MR. KOFFMAN: Thank you. Thank you all for sticking with the time.

[Brief recess.]

#### **Agenda Item: Public Comment.**

MR. KOFFMAN: Let's go ahead and get started. We are going to take -- we only have 15 minutes, so I am going to give each of the four speakers a little less than five minutes, and I will call time on it, Kevin. So, go ahead and get started, please.

MR. BROMBERG: I am Kevin Bromberg with the Small Business Administration Office of Advocacy. We have approximately four minutes, right?

MR. KOFFMAN: Yes, sir.

MR. BROMBERG: We came here to talk about the Form A. We were here in September and did a little thing on the Form A. You have had —by tomorrow, you are going to have three sessions on how you can add more elements to the Form R and make it more clear and better and exciting, and we like that. On the other hand, there are a bunch of people who are involved in the Form A, the simplified form, and it makes a lot of sense considering the total burden of the Form R, which are you now about to increase, for good reason. It makes sense at this time to be able to give some advice to EPA on what to do about the Form A to take care of the people who have small releases and to put them in a different universe, expand the Form A so that more people can take advantage of the short form. It is the mini Form R. So, at this time, it is very appropriate for EPA to consider which people should be in the Form A and which people should not —and what do you do to the Form A to allow more people to get in there.

I have handed out our September 25th piece which has two elements in there which I will get to. More importantly, in the back, as I promised earlier and based on a conversation that I had with Paul Orum, Paul Orum does not agree to this but we discussed this concept. How it got developed, so you all know, one of the two elements of expanding the Form A is, at least in SBA's concept of expanding the Form A, is to make sure that recycling and energy recovery people who are unfortunately unable to use the Form A would now be able to use the Form A.

The environmentalist response was if you remove the people from energy recovery and recycling from the Form R, we will lose important information. So, we said fine, let's take the important information from the Form R and put it onto the Form A. So, on the last page of that three-pager, you will see the four columns of numbers, and you see it is a check box. It is my belief and at least the industry people that I have consulted with that the industry people would be able to handle this check box, this would not be a very significant burden, and they would be able to join the Form A and get the savings from filling out the mini-R.

Another idea that Paul and I had years ago and we do not know why it is not in the Form A, we want to add the media back into the Form A. Make it a real mini-R. So, you would add air, water, land, solid waste, et cetera, a check box, same thing. You would end up with range reporting as EPA describes it for those media, and you would have energy recovery, recycling, and then you would have all of the media as you have in the traditional Form R.

MR. KOFFMAN: You have another minute.

MR. BROMBERG: Okay. Two other items that we would do in the Form A. One is as we discussed in the very beginning of the September piece. Instead of having 500 pounds, which is extremely small, 500 pounds, if you spread that across the whole country, even in the worst case, you end up with 4.5 million pounds per year. We have 3.5 million square miles in America. If you spread that one pound over one square mile over one year, and it is not even detectable. We think the EPA has a lot more room to go, and that assumes it is even released, and generally speaking, they are not released. So, EPA has to look significantly at expansion.

One other type of revision that we think ought to be done is to take the Form A, and there are a lot of facility ID type information that should be saved for the facility ID rule making or process that EPA is going through. We can very much shorten the Form A by eliminating a lot of the items that are on there. Indeed, Form A information

ought to be on this thing, Land View III, with all of the AIRS databases and all of the hazardous waste databases, and we could fit the Form As on here. TRI is on here, too, which by the way is a wonderful product, Land View III, paid for by the EPA. Your money, your tax money at work.

MR. KOFFMAN: That is time, Kevin.

MR. BROMBERG: Okay, 20 minutes on —20 seconds on what —  
[Laughter.]

MR. BROMBERG: What do we want you to do. You have had three sessions on how to add burden to Form R, and we think this should be —it is now time to put on the agenda item so EPA can attempt to propose something for Form A, a burden reduction. We are talking 500,000 hours of paperwork reduction you got from the Form A as it is. You probably can get another million without much of a sweat at all. So, I would like to put on the agenda for the next meeting and would like people to support that, and I think a half-hour discussion based on the papers that EPA has already created for their information collection requests and a report that we have already done, based on that and comments on the Form A ICR information collection request ought to be an adequate basis for a discussion at the next meeting in March. Thank you.

MR. KOFFMAN: Thank you. We have John DeFazio. John, four minutes.

MR. DIFAZIO: Good morning. I am John DeFazio. I am senior council for the Chemical Specialties Manufacturers Association. CSMA has about 400 member companies primarily involved in the formulation and packaging of household and institutional chemical products. I also will address Form A in particular. The only handout that I have is a preliminary critique of EPA's interim report on TRI Form A. I will hand that out when I am finished, and you can read that at your leisure. I am just going to take two or three points out of this and expand it into a little bit broader presentation. You should also look at the interim report itself and the ICR supporting statement that Kevin mentioned. It is very good background on the Form A.

Two items in particular I want to address, the underutilization of the Form A and the burden of the Form A, and I want to offer a specific solution. First of all, I want to thank EPA for promulgating the Form A and the alternate threshold. I think it is a very good first step. I think it needs some work.

First of all, regarding the underutilization. As Kevin mentioned, I think only one in three of the forms that are eligible to be —of the information reported to be eligible on the Form A has been reported on the Form A. About 12,000 Form Rs that could also be really filled out on the Form A. In the interim report, EPA really does not assume any responsibility for doing that. I would like to see a little bit more outreach to the regulated community, some more education, and better forms design. I think that will help.

EPA mentions, among other reasons, why people are using the Form R instead of the Form A is that some sources want to provide full information, EPA's term, to the community. I think for these de minimis sources, the information really is not all that critical. I do not think it is a valid reason.

In the interim report, EPA used a survey of nine people who had filled out the Form R instead of the Form A. I thought there was some interesting information in there. Only one of the nine said that they wanted to provide the Form R information to the community. Four said, really, "What is a Form A?" They had no concept of what the Form A was. I think that could be the fault, again, of outreach and design of the forms. Two were unsure of their eligibility, again a problem with the forms.

Finally, two mentioned what I thought was a very good point. There is really no difference in burden between the Form R and the Form A. If I can elaborate on that. EPA does do some comparisons in the ICR supporting statement that compare first-time Form R users and first-time Form A users. Then they compare subsequent year Form R users with subsequent year Form A users. I think the proper comparison, since most of these facilities have already been filling out the Form R for quite a while, they are subsequent year Form R users. You have to compare that with first time Form A users. You have to see what that burden is that they have to overcome to be encouraged to fill out the Form A. If you look at the burden for the subsequent year Form R reporters, it is 52 hours and \$3,200. If you look at —

MR. KOFFMAN: One minute, John, sorry.

MR. DIFAZIO: Okay. If you look at the first-time Form A users, it is 49 hours compared to 52 and \$3,100 compared to \$3,200. Virtually no difference between those two. So, I think as Kevin mentioned, I think that we can eliminate a lot of the data elements on the Form A. Items 7 through 17 have to do with facility identification on the Form A. I think that perhaps three of those should be sufficient with the software that Kevin mentioned and with the envirofax on line now, you can get all of the other facility IDs, the permit numbers, also on line. So, I would recommend deleting elements 10 through 17 from the Form A.

I also think that you can combine the two forms to make sure that people have the opportunity to use the Form A. The first half of page one could be those data elements that are common to both the Form A and the Form R. The second half of the first page would be instructions on the availability of the Form A. You have a check box at the top of the form that says Form A or Form R. If you meet the threshold for filling out the Form A, you just check out Form A. On the back, you could have the certification and the other data elements that Kevin mentioned if you want to add those to the Form A. Otherwise, you fill out the rest of the Form R as you have been doing it.

MR. KOFFMAN: Thank you.

MR. DIFAZIO: Is that it?

MR. KOFFMAN: Yes, that is it. Our next speaker, thank you, John, will be —

MR. DIFAZIO: One other point that I also support.

MR. KOFFMAN: I should not have said thank you.

[Laughter.]

MR. DIFAZIO: I will support Kevin's thought that we should address this perhaps at the next meeting of this group.

MR. KOFFMAN: Thank you again. Rick Latimer.

PARTICIPANT: Are we allowed — I thought at the last meeting we could ask questions.

MR. KOFFMAN: Maybe save them for the end, and we can take a look at that. Rick.

MR. LATTIMER: Thank you. My name is Rick Latimer, Eli Lilly Company. I really want to make two points. The first one, I understand, may not be exactly discussed here, but I thought it was important to be mentioned. The two things that I want to talk about, one was just the characterization of waste, how important that is, because it really affects Form R reporting in Section 8. The issue paper mentions that EPA is in the process of reproposing regulations from, I guess the last round was in 1991. The CMA

had created a document that was discussed at the last NACEPT committee, probably in the 1991, 1992 and 1993 time frame. Those were suggestions that CMA had developed and was using as guidance. I just wanted to at least mention that. I have copies if people are interested in it, but it is what we call the waste stream criteria. We felt it was very important to have a very —as common a process as possible to determine what a waste is. Appropriate or not, I just at least want to mention that because that was a topic of a previous NACEPT committee.

The second thing, very pertinent to the agenda, would be the item number one in terms of splitting apart waste generated at a facility from waste received from off site. I believe in your handouts was provided a subset of CMA comments from a year or a year and a half ago where it laid out some of the advantages of doing that. It shows how it might be accomplished using the current Section 8 format. I know we have had discussions about changing that, but using the existing format, how that might easily be accomplished. It goes through an example for several facilities and the effect it would have on their Section 8 data and also if you did a roll-up for waste generated versus waste treated or managed, it would better show what actually is happening at the facility.

So, I think I just want to reemphasize that I personally believe those concepts are still valid and can be rolled into some of the redesign efforts that are going on. Just from personal experience, in the State of Indiana, they used Section 8 data. They are very interested in trends. They interviewed the largest facilities in the state in terms of volumes. What they are looking for are trends that maybe they can apply in the police/prevention efforts to smaller businesses. So, I think that is very important that they do that.

One of the difficulties we do have, because we do treat wastes at certain facilities that come from other Lilly facilities, is trying to explain trends where the production index might show 1.0 but the waste treated might jump one direction or the other for no apparent reason.

MR. KOFFMAN: Excuse me. One minute.

MR. LATTIMER: This would really help with that, and I think it would help states and others that analyze the data. I guess I will leave the last 45 seconds if anyone has any specific questions if they have reviewed that document.

MS. PRICE: If I could just interject that I did do a mailing out to all of the committee members with the CMA comments that he referred to, about two weeks ago, and also included EPA's response from the final rule to some of those issues. If you all on the committee did not get it, I have extra copies here if you want to look and see if you know what he is referring to.

MR. KOFFMAN: That is time. Thank you, Rick.

MR. LATTIMER: Thank you.

MR. KOFFMAN: Final comments come from Dwight Emerson.

MR. EMERSON: Hi, I am Dwight Emerson, President of Analytical Services. I have passed around the oral testimony. Does everybody have that? It is entitled, Suggested Revisions to Section 8 Form R, Credit Energy Recovery Method as a Source Reduction Option and Remove Elements 8.2 and 8.3." I have been supporting the Department of Energy since 1980, and the regulatory review and the comments today are my own. They do not necessarily reflect the Department of Energy.

I want to make eight key points, three recommendations and four summary items. The Pollution Prevention Act, as you know, established source reduction as fundamentally different and more desirable than waste management or pollution control.

It defined source reduction, and I emphasize any practice which does two things and meets a condition, a third condition, that is point number two. In particular, EPA, I think, agrees that it meets conditions one and two. What it questions is whether it meets condition number three, which itself is not integral to and necessary for production of a product or providing a service. I will come back to that a little later on another point.

Section 8 was created as a result of the Pollution Prevention Act, and the form itself was created in response to that act. The term “energy recovery” is not anywhere used in the Pollution Prevention Act. It does not — you will not find it within the act. So, you might ask, how did energy recovery become part of Section 8. Well, there was an intense negotiation after initial drafts were created. The public did not have an opportunity to input on that, and a decision was made, and OMB finally approved it, and it did not have the opportunity for public comment.

In point six, I would like to make the point that energy recovery is not waste management, recycling, treatment or disposal, which are discussed within the Pollution Prevention Act. The purpose of energy recovery is to produce useful energy. The destruction of a hazardous component is a consequence not the purpose of energy recovery. That is a very important concept when we get back to integral to and necessary for.

So, what are the requirements for energy recovery that it has to satisfy. We have already said that it has to reduce the amount of the listed chemical released. It does that. It destroys between 94 and 95 percent of the toxic chemical. It has to reduce the hazard. It does that because the chemical has been destroyed. So, we come down to whether it is integral and necessary for. In interpreting what is meant by that, it is the activity itself of energy recovery that has to be integral to and necessary for. In guidance, EPA has said that it does not believe the destruction of a toxic chemical is integral to production. That belief is also based on another belief that if a toxic chemical meets the criteria of being a retrohazardous waste or a constituent of it or being a contaminated or spent, otherwise used toxic chemical, that the toxic chemical must be managed and disposed in some manner and that combustion is a method of management. That is —

MR. KOFFMAN: Excuse me. one minute.

MR. EMERSON: Okay. That basis or belief is confusing to me because if you apply that logic, you would also apply to fuel because if a fuel contains a toxic chemical and you burn it, are you managing that toxic chemical. I think there was an error made in the interpretation of what is meant by integral to and necessary for.

Under EPA guidance, combustion of fuel containing a toxic chemical is otherwise used, so those elements are reported on the Form R as it exists. Recommendations, I have three of them. Does a streamlining activity remove Sections 8.2 and 8.3 which refer to energy recovery. Second, that EPA give energy recovery an assigned source reduction code for use in Section 8.10 and recommend that guidance documents modify this reflected interpretation in source reduction as energy recovery being a source reduction option.

In summary, four points. Over 500 million pounds were recovered by energy recovery in 1995. It is an important option to industry. The way it is currently reported, it serves to be treated as a bad item and increasing those numbers is considered bad; decreasing those numbers is good, so it serves to discourage rather than encourage energy recovery. A third summary point is releases from energy recovery are reported like any other fuel combustion. The fourth item is it is not required under the act, it does not

recognize energy recovery as a valid method of source reduction, and it serves to discourage rather than encourage further energy reduction. Thank you.

MR. KOFFMAN: Thank you very much, Dwight. I appreciate your trying to stick to the time. We will have another 15 minutes at the end of the day if anyone has further comments that they want to make. Now, we are going to look at and move toward a overview of our discussion topics for the next two days. I will turn to Michelle for that.

MS. PRICE: This is Michelle. I think we are just going to—I mean, it is pretty clear what we are going to try to do the next two days. What I would like to do since we only have from now until 11:30 before Christine gets here to talk about travel is turn it over to Sarah and let her talk about some of the stuff in the issue paper. I think we are going to actually start with issue two rather than issue one because of our limited time here.

MS. HISSEL-McCOY: Hi. My name is Sarah Hissel-McCoy. I work in the TRI branch. The reason why we decided to change issue one and issue two, just so you know, issue two addresses the concern of toxic chemicals that are recycled, and that came up earlier in today's discussion. I thought that maybe if we can get this issue out now, then we could more smoothly go into the idea of total waste managed. It just seemed to make sense for discussion.

Currently, the agency requires that toxic chemicals and waste have to be counted in Section 8 and Section 8.4 and 8.5 each time they go through the recycling process. We believe that this is the most accurate way to report how these toxic chemicals are managed. If the toxic chemical were not recycled, the company would have to purchase new toxic chemicals to use in their product. It is really what is the most accurate way of reporting.

It is also the only way that you could then show source reduction. If a facility one year recycles 10,000 pounds and the following year they recycle 8,000 pounds but really it is the same stuff recycled over and over again, you would not see that if you only counted it the first time as reported recycled.

Some commentators believe that this unfairly overestimates how much is actually recycled on site or off site, so an idea has come up. One option to address this is to add a data element in 8.4 and 8.5 that would indicate how many times the same batch of material is recycled over and over. That would give the public an opportunity to then backtrack how much waste was actually recycled at any given time, was actually on the site perhaps at any given time. If a facility, provided in an example in the issues paper, if the facility recycled 1,000 ten times throughout the year, they might be reporting it as, I will make this a little bit simple, as 10,000 pounds. The additional data element would say 10, you recycled it ten times, and then the public could go back and track, go back and realize that you reported 1,000 ten times.

In the end of the issues paper, there are some questions that I would like to point you all to that deal with this topic particularly. The questions are not numbered, but it is 7, 8 and 9 starting with adding a data element to 8.4 and 8.5, indicating how many times a toxic chemical is recycled ease concerns. By adding this data element, would the public have a better understanding of the recycling activities occurring at the facility. And, would the addition of a new recycling data element be overly burdensome to reporters.

If anybody has any questions for me right now, I would be happy to answer them. We would like to focus specifically on Section 8.4 for the discussion.



MR. NATAN: We did a telephone survey a couple of years ago of a number of facilities that had had large decreases in the amount of the substance recycled on site. We found that there were probably six different methods used to calculate the amount that was recycled on site. Some did what you suggest, and every time that they counted it, basically you have this production process, and you have a pipe that comes out. Everything that came out of that pipe is counted, and that is what you are getting at here, I think. Some took a different approach and said, We make this much product. If we are going to make that much product, we need to use X amount of this chemical. We bought as virgin feed a significantly smaller amount of that chemical, so therefore the difference between them is the amount that we recycled on site. That is fundamentally different from what you suggested the first time, and it would then be impossible to calculate a number. I think that unless there is clear guidance on how to calculate the amount recycled on site, you are never, ever going to get at this issue at all.

MR. KOFFMAN: Go ahead, I'm sorry. Please, Paul.

MR. ORUM: Paul Orum. As one who was on the previous iteration of this committee, we spent all kinds of time on this issue at that time. I found this suggestion quite encouraging. I think it is very creative as a way to give a more accurate picture and also preserve important information. I do not know if the guidance can be made specific enough and tight enough to enable this but I definitely want to encourage work in that direction.

MR. KOFFMAN: As I understood it, you were taking questions on this, is that right, Michelle?

MS. HISSEL-McCOY: Right.

MR. KOFFMAN: Any other questions for Michelle.

MS. HISSEL-McCOY: Sarah.

MR. KOFFMAN: Any other questions for Sarah?

MR. ORUM: Paul Orum again. I do have a question: 8.4 is recycling on site; 8.5 is recycling off site. As far as I know, in the past, it has not been the responsibility of the originating facility to figure out more detailed information on what goes on once they have shipped it off site. How would adding—how would this box work therefore in Section 8.5?

MS. HISSEL-McCOY: Potentially—no, you are right. It really is inherent in recycling on site.

MR. ORUM: So it would be really just 8.4?

MS. HISSEL-McCOY: Yes. I would like to give the opportunity for folks in 8.5 to come up with some sort of creative solution so that they would perhaps feel a similar benefit, but I am not sure that it will work for them.

MR. KOFFMAN: We have Ken and then Joan.

MR. GEISER: This is Ken Geiser. I guess I am looking to Joan really. For me, the issue is to what degree does this burden industry to have to make this differentiation. For me, I am also intrigued by it, I like it, but I am looking for answers from others who are actually reporters. Is this helpful?

MR. KOFFMAN: Joan.

MS. FASSINGER: I did have a question. I will respond first. As far as a burden, if you are doing something in batch, for instance if we are taking—we take solvent, put it in tanks, and then have it go through a distillation/recovery process that renews it. That is easy to do. When it is something like metal fines that goes through an

external infrastructure to be recovered, that is much more difficult to determine how many times it goes through the loop. So, I think we need to look at some examples and see how this option would flesh out with those examples and how it would affect the reporting.

Sarah, I did have a question also relevant to this is if recycling minimizes the introduction of new toxics into the system by continually recovering certain materials and reusing them, how does your proposal indicate that you are actually minimizing use or minimizing more toxics going into the system, more toxic chemicals, TRI chemicals?

MS. HISSEL-McCOY: I am sorry. Can you restate your question? I'm not really —

MS. FASSINGER: Yes. By recycling, if recycling is a means to promote resource conservation, in other words we are not bringing new materials into the system, we are not mining or creating more of the TRI chemicals, we are reusing the ones that are in the system, how does your option communicate that fact that we are conserving resources and we are —again, I guess there is still a fundamental issue whether recycling should be considered a source reduction type activity or maybe provide more credit. Right now, the way it is presented in data releases and in the presses, it is a bad thing, it is not good enough.

MS. HISSEL-McCOY: The point of the idea was not necessarily to quantify or to indicate where recycling fits in the pollution prevention hierarchy. It was a way to get more information out to the public and to potentially ease concerns of those reporting that makes them look like they are reporting so much, that this is a way to show the public a truer number, a truer representation of what they actually do. Just to your second point, for the waste minimization, it is clearly what is stated in my understanding of the Pollution Prevention Act.

MS. DOA: Maybe if I can add to Sarah, I think it is really sort of a mechanical thing. You can look at a total of new material, let's say, that you are preventing by counting it every time and in addition have that quantity, let's say the absolute quantity, that goes through. So, you have the number. Together, I think they add additional information and get at the issue that I think some people in the regulated community have with that number being counted over and over again. Maybe if I could add onto that to Paul, for 8.5, I think that one of the things, it is predominantly an issue for 8.4. For 8.5, to send something off to be recycled and it comes back to you to use it again, that would be a way to counter that.

MR. KOFFMAN: We do have a queue that has formed here, and Mike is the next up on it.

MR. SPRINKER: Michael Sprinker. I guess I had some of the same questions about how do you track where something is sent off to another site for recycling, maybe used then by somebody else, the recycled compounds used by somebody else, but all where you sent it off site to be recycled, it is cleaned up, if you would, the good stuff sent back to you. I mean, it almost seems like that might almost create sort of two directions to go with this data element on I guess it is on 8.5. One might send you off to the recycling firm to look at what they do next. The other one would perhaps send you back to your own company. I am not sure how to work that out, but I think that might be a —and that may or may not be relevant for purposes of this reporting, too.

MR. KOFFMAN: I have Edmund next.

MR. SKERNOLIS: I just want to make sure that I intellectually understand what is going on. I do not think that I have an axe to grind yet. I am also concerned about

how this plays out in the on-site/off-site thing. I am still a little bit confused about that based on the questions that Paul has raised. My other question is to the people who worked on this issue the first time around. I am not quite sure what point we are trying to get at because it seems to me that we are also trying to get at something that is also supposed to be picked up by the productivity factor as well.

MS. HISSEL-McCOY: Do you mean the production ratio activity?

MR. SKERNOLIS: Yes, the production ratio, that the turnover of the recycled constituent, in a sense, in a lot of production processes, would be a surrogate for the production ratio as well, if you will. It seems to me that they are all linked together, and yet we are only talking about—it is a three-legged stool, and we are only talking about two of the legs. I look to Joan as a more technical expert on this.

MS. FASSINGER: Again, I think that is something that depends on the type, if it is an in-process versus something that goes out through an infrastructure.

MR. SKERNOLIS: Like a relatively closed loop situation.

MS. FASSINGER: That might apply on site. I do not really think that the production indicator would—that counting it how many times it goes through the loop would be analogous or consistent with the production because it would depend upon the type of material and the type of recovery process, you know, distillation might be much different than restripping wire and putting the metal back into the system or something. Again, I would ask for maybe some groups to get together and to go through some scenarios and see how this applies to some various scenarios.

MS. HISSEL-McCOY: Something that I did not say earlier, it is an option to have this a voluntary piece of information. Only the folks who feel the need to get this information.

MR. STONE: No, no.

MR. KOFFMAN: Jonathan.

MR. STONE: Jon Stone, Delta Resins. As a batch manufacturer of chemical products, we do a lot of distillations. There are two things you can do with that distillate: You can send it off site for disposal, or you could try to recycle it internally. Obviously, the preference is to recycle it internally because it is—and the biggest way that we can measure that is total pounds recycled over the course of the year and what was the reduction in virgin material that you had to purchase. We put various amounts every day in, and to answer Ken's question, it would be a tremendous paperwork burden if we had to try to figure that percentage, analyze it, and then do it on a daily basis, batch basis, where we may make 15 or 20 different materials a day. How much material went in. So, a real concern paperwise and timewise, where on an annual basis it works out very nicely.

MR. KOFFMAN: Next on our queue, we have Sam and then Christiana.

MR. CHAMBERLAIN: I guess a couple points to echo the complexity of what Jon just pointed out in terms of the chemical manufacture process is a continuous process, and there are a lot of dynamics and interrelationships that go on within that process. It is extremely difficult to calculate and quantify the number of times material may be recycled. More importantly than that, it gets back to the basic definition of when does a waste become a waste because I think Joan pointed out and it has been echoed around the table, and that is that if that molecule in that waste stream comes back into my process, and I offset that by not having to buy more raw materials or it replaces the generation of a co-product, then in effect, that is a value-added benefit to my process. I think that the public would appreciate us performing our operations in a highly efficient

manner that gets the best value or best benefit of our process by recycling as much as possible to get that last little bit of product or co-product out of that process. It misleads the public to have them assume that just because we recycled it, it is a waste and is reported as a waste at point A, and B is that you escalate that number by an order of magnitude based on the amount of time that you have recycled it. In fact, you are actually producing a benefit to society by recycling as much as possible and again offsetting those raw materials or co-products that you would normally have to go out and purchase.

MR. KOFFMAN: Krisztina, not Christiana.

DR. BORDACS: I guess I do not have to say my name then. I just wanted to second both of your comments. One of the issues that the pharmaceutical industry is facing is batch operations and continuous solvent recovery. Explain that to me, how are we going to determine the amount recycled. Although I really like the idea, and I think that the only way that it would work, and I agree with Jonathan, is on an annual basis. Based on the product, you would have bought that much solvent, right, you did buy that much, and the ratio is going to tell you the theoretically recycled because on the per batch basis, based on continued recycling efforts, we are never going to have an accurate number.

On the other hand, I am a little bit concerned of the misuse of the data again because if it is going to get reported and we are going through the effort to report it, and it is going to be misused or viewed as the amount managed that is on site, that is going to be extremely misleading, but already the Form R has that information in it. Actually, the idea is managing much less of the waste at site or chemicals at site.

MR. KOFFMAN: Paul.

MR. ORUM: Paul Orum. I view this change as making this current data element more intelligent. Right now, if one company reports one million pounds recycled, I can say okay, they did not have to buy a million pounds of that particular chemical. If I know that it went around three times, I can say approximately, all other things being equal, if I am not mistaken, that is three million pounds that they did not have to buy of that particular chemical. It makes for better analysis by the public, and I think it would make it more intelligent, that particular element.

DR. BORDACS: I agree with that. The only thing, I agree with Tom's warning that —number one, I do not think that it should be voluntary. We are all doing it or we are not doing it.

[Laughter.]

I am not going to go all the way if nobody else is going to do it because then I do not see any advantage on doing it. The other thing is that I agree with Tom's comment. We have to come up with one way that we all are going to do it and we can all agree on. Otherwise, the number is going to be completely worthless.

MR. NATAN: With what Paul was saying, if it is not right to take one million and multiply it by three because if you were going to strictly calculate this correctly, you would have taken the amount for recycling, so it would have to report three million pounds and put the number three.

MR. KOFFMAN: We have David, Joan, Jon and Sam.

MR. FEES: David fees. To address some of the concerns of calculating the amount that is kind of in the system, which is within one batch, isn't that what facilities are doing now in terms of threshold determination? Isn't the threshold determination based on not the total amount but just that amount that goes through the system one time.

DR. BORDACS: Continuous.

MR. FEES: If they have calculated that amount for a threshold determination, they would have that amount already.

MR. NATAN: If you are talking about total threshold for a Form R, I would think, my experience states that they do not calculate it on the basis essentially of NPO. They calculate it on the basis of total use from the materials, more of a materials accounting.

MS. HISSEL-McCOY: Correct.

MR. NATAN: This would not come into it at all.

MR. FEES: Do you think it is just too gross of a method of —

MR. NATAN: I am talking about if you are discussing whether or not you have to report on a Form R, you would take your inputs to the facility and essentially subtract your ending inventory, and that gives you total use, and that determines whether or not you have to file the Form R. You can go about calculating it from essentially a non-parlet gap width way. It should come out to be the same number, but I think grossly, if you are making the determination that we are going to have to report, it is immaterial to counting determination. It has nothing to do with this recycling.

MR. KOFFMAN: Tom I want you to know that I consider those part of David's comments. We are up to Joan.

MS. DOA: I just wanted to clarify --

MR. KOFFMAN: Joan ceding to Maria?

[Laughter.]

MS. DOA: I think I know what David was saying. When you do your threshold determinations, if you are using it let's say as a solvent, it is an otherwise use. You have to determine how much new was put in for that year to see if you exceeded the thresholds. Now, it might be that you use so much that you know automatically that you are going to exceed the 10,000 pound threshold. Am I correct? Is that what you were getting at?

MR. KOFFMAN: Okay, Joan.

MS. FASSINGER: Just kind of an expansion on David and Maria's point. You do bring in -- I mean, you do not, when you determine your threshold, count the ten times this has gone through. Perhaps another alternative, and again, I think that it would be most beneficial if we could look at some scenarios and look at the actions and see how they apply and think this out a little bit more before getting into a real long, lengthy discussion, but perhaps another alternative would be a ratio or percent recycled to the amount you are using so that you would better indicate, again, the resource conservation. That is an option also that I think requires a little more thought and fleshing out.

MR. KOFFMAN: Jon.

MR. STONE: Our industry being the foundry industry, there is a TRI constituent that is just through a scrubber solution where it is neutralized to a salt, it is non-hazardous, and it is shipped. It goes to a recycler, and I am addressing Mike's question. They recycle it because it is expensive material, generate the virgin material back, and resell it, not necessarily to the generator. It can go anywhere in the industry. I am wondering how you could possibly address reporting back efficiency of recovery. That is just trying to address it. It does not necessarily have to come back to the generator of that material, especially if it was shipped off site as a non-hazardous material.

MR. SPRINKER: One question on that. Does the material that comes back

to you then, that portion, is that considered like a, if you would, a new material?

MR. STONE: Whoever buys it, but it is reused just like it was as a virgin material.

MR. SPRINKER: Where reality is that this may be a mix or —

MR. STONE: Oh, no. The specs on it are the same as virgin material.

MR. SPRINKER: Oh, okay.

MR. KOFFMAN: Sam and then Krisztina.

MR. CHAMBERLAIN: One observation in terms of a value added benefit of recycling is that you do recycle as parts of our processes those waste streams that we can concentrate up to minimize our disposal cost. So, as you factor in the true recycling related to those waste streams, that is one thing, and reporting that, but reporting amount recycled for product value or resource recovery is a totally different concept in our mind.

MR. KOFFMAN: Krisztina.

DR. BORDACS: I had actually a procedural comment because I thought we heard that we should kind of form a subgroup on it. It almost seems like the industry has strong feelings and recommendations pro and con. Maybe we should come up with some recommendations because I am sure that for non-industry people it sometimes even does not make sense because they do not see the problem. Would that work?

MR. FEES: If we think that we can't flesh out this issue amongst 22 people here, then maybe we want to consider what we did last time, form separate groups, form four groups of four to five individuals.

DR. BORDACS: I just thought if somebody volunteers, we could form a group and come up with recommendations versus kind of debating. You know what I am saying? We have been debating this issue —

MR. FEES: We are just trying to get the ideas out on the table. We just started discussing this issue, so I do not have a problem about us getting some ideas fleshed out here. We cannot do this all day. We have to limit our time. We have to know what our time limit is.

MR. KOFFMAN: I understand that for right now we have about five minutes until someone comes in to talk about travel.

MR. FEES: We are just going to keep on this topic until that person comes because they are already past the time. Maria, did you have something to say about procedural?

MS. DOA: Well, I guess it is sort of procedurally, but as you move forward this and if you are going to break up into groups, I would move forward on the presumption that the guidance is every time it is recycled on site, it gets counted. For example, we added N-Hexane and those are huge recycling numbers because they recycle it a whole number of times, and it adds up. Given that premise, think about the subset box.

MR. FEES: So, what you are saying is that —

MS. DOA: I know there were issues about guidance, and I would like to frame it that way given that it gets counted every time it goes through. Is it useful to have the subset, the new material that officially is put into the system for the year. If it is okay if I frame it that way.

MR. FEES: I hear you saying like the term releases, it is going around again. That total number that is in 8.4 is not up for discussion.

MR. NATAN: There is not any rule.

DR. BORDACS: There is no rule on that. What we are —

MR. FEES: For this discussion, we are going to assume it goes that way.

MS. DOA: Given that, given that, I would like to focus the discussion that way.

MR. FEES: If in fact you are going to get this sort of gross amount, how can we best give some smartness to that number, some intelligence to that number so that people can understand that it is not just one large amount but it is the recycled amount.

DR. BORDACS: As long as we can explain that it does not mean any point in time managed material at the site.

MS. DOA: Could you ask that a different way?

DR. BORDACS: That is not any given time present at the facility. It does not represent any given time the amount of chemical is at the facility.

MR. FEES: That is what the maximum amount on site sort of gives.

MS. DOA: Yes. Right.

MR. KOFFMAN: Ken and Jon with comments, and then we have to go right to travel after that. So, Ken and Jon, final comments on this. Then we are going to go to travel, and we will come back to this later.

MR. GEISER: This is Ken. I think the spirit of what initiated this conversation was simply to try to deal with, as I understand it, the double counting problem or the triple and multiple counting problems and not to deal necessarily with all of the problems associated with recycling. Adjusting this one issue will deal with that issue that we hear a lot about which is how do you keep from double counting which I think everybody is on the same page about, and I do not know that it needs a lot of discussion. I do not think that is the end of the story on recycling, though. I think there are a whole bunch of other questions about how do people get credit for recycling and is it more valuable. I think people are trying to load into this particular little piece too much. I actually think it would be nice to have industry who do a report think about how to deal with the question of recycling as a group and come back with proposals. So, I like Krisztina's proposal, but I think not just about this one little question.

MR. KOFFMAN: We are going to do Jon and Edmund. I did not notice your card was up. So, Jon and Edmund, and then we are going to go to travel.

MR. STONE: Jon Stone, Delta Resins. I think there are two topics of recycling. There are the people who are recovering something, replacing virgin material and then selling it as a product. Then there are the people who are taking a solvent, recovering that solvent and using it as extraction solvent over and over and over. There are two real issues here that are separate. Those people who are recovering solvent and using it over and over could be double counting. Those who are recovering a distillate material, replacing virgin material, that is one time through. There is no double counting there because you have replaced the virgin material on an annual basis, and it is never used a second time. I think there are really two subsets here.

MR. SKERNOLIS: I was just going to agree with Ken. I am not sure we need to break into four groups to deal with the narrow issue presented here. I do not have anything to contribute to that conversation.

[Laughter.]

MR. KOFFMAN: Thank you for the closing remarks.

MR. SKERNOLIS: I am not sure half of the people in this room would find much to say at those breakout sessions, so I would strongly recommend not using our time that way for this issue.

MR. KOFFMAN: All right, I think we are going to have a discussion on travel. Are we ready for that?

**Agenda Item: Travel.**

MS. PRICE: Yes. This is Christine Augustyniak from Environmental Assistance Division in our office.

MS. AUGUSTYNIK: Does everyone want to stay for this? We are going to be talking about how to do our invitational travel and apologize for our many mistakes. I do not know, that may or may not be very interesting for some people.

MR. FEES: Let me just say that on the schedule, we have lunch beginning at 12:00, so anyone who does not want to stay, if you want to be back on time for the afternoon session, be here at 1:00.

[Whereupon, discussion of travel issues continued and several participants departed the room. The session concluded at 11:35 a.m.] A F T E R N O O N S E S S I O N (1:00 p.m.)

MR. FEES: I would like to start the afternoon session and turn to issue two for just a little bit, not in terms of discussion but because we have to wrap this up and have to move to another issue. I want to get a pulse of the group on their thinking on issue two about the recycling, specifically about the solution that EPA has presented, that is to provide this so-called, the recycled ten times number, the factor, to be placed on the on-site recycled amount. How many people —given that adding of one data element, how many people feel that that is a recommendation that they would like to see go to EPA? They like that idea as EPA has presented it in the issue paper. How many people feel that that is a good recommendation?

MR. JACOBS: I just think that there should be some other options there.

MR. FEES: Oh, yes. The other options are do you think it is a good idea, that factor, but you are skeptical that generating that factor —you are skeptical about how to generate that factor.

MR. JACOBS: Generating that factor based on continuous as opposed to batch process.

MR. FEES: The third option is really just do not think that is the solution to this recycling issue, this idea of this factor. There has to be some better way. There are three options, and I guess you could abstain from any one of them. Yes, Paul.

MR. ORUM: What I heard a number of people say in industry is that they would have to go away and talk about it and think about it. I am wondering if we can make as a recommendation, okay, people will go away and think about it and talk about it —

MR. FEES: That is what I am trying to get at by finding out who —where people sit so we can form a group.

MR. ORUM: So the recommendation would not be directed now to EPA for work.

MR. FEES: No, no, no. I am just trying to get a feel for how many people think that this idea, as stated, suits them, and they do not need any further explanation of how you would formulate that factor.

MR. KOFFMAN: I think he is asking for a show of hands.

MR. FEES: I am asking for a show of hands on this option that EPA has presented. I guess no one feels that that is a viable option.

[Laughter.]

How many people feel that the idea of having a factor is worthy if the hurdle



of generating that, accurately generating that factor, could be laid out?

MS. SULLIVAN: What is the next option?

MR. FEES: That you do not like the option, you do not like the factor, you do not like the idea of using a factor to explain the idea of on-site multiple recycling.

MR. CHAMBERLAIN: Restate that, David. I thought I heard two different things.

MR. FEES: The vote? What is that?

MR. CHAMBERLAIN: What we are voting on.

MR. FEES: No one feels that, as is, the option is viable, but if you believe that the factor could be a viable additional element to the form if we could come up with the method for accurately determining that factor, for facilities to accurately generate that factor number, then would you consider it a viable option for recommendation to EPA. That is sort of like option two. I have asked people to vote, and I would like people to continue to put up their hands to get some sense of it.

MS. FASSINGER: Excuse me. What is the option for off-site recycling then?

MR. FEES: We are not talking about off-site recycling now because that is really what is addressed in there.

[There was a show of hands.]

About half of the group. About half of the group. At this point, I think the folks who believe that it is something worth pursuing, that now we need to come up with some ideas as to how to best generate that factor. I think that group should get together. I think the people who just do not —by not voting, that is the option three, you feel that that is not a viable solution to the idea of recycling and that maybe you have some other ideas, and maybe you as a group of people could get together and put forth some ideas.

We have to leave it at that because we have to move now onto another issue. At this point, I would like to form two subcommittees and put something together. What are your thoughts on that? Just anyone.

MR. ORUM: Are you asking for volunteers?

MR. FEES: Yes.

MR. ORUM: Good.

[Laughter.]

MR. KOFFMAN: Paul has volunteered.

MR. FEES: If we want to further this issue along, I think that is what we have to do. We do not have any more time today or this meeting to work on this issue, so the only alternative is to get smaller groups together to brainstorm, put their ideas together and either through emails between this meeting and the next meeting or at the next meeting we can discuss it similar like we discussed the combined recommendations from last meeting. Joan?

MS. FASSINGER: I volunteer.

MS. FERGUSON: Are we forming two groups? I abstained, and I can explain why I abstained, and if anybody else has the same interests I do, it would be worth getting together. If not, that is fine, too. I am concerned about how everything fits together and rolls up together, and I am not sure a factor in and of itself addresses that larger issue. If there is anyone else who is interested in that and wants to explore —

PARTICIPANT: [Comment off microphone.]

MS. FASSINGER: I think that can be part of —

MS. FERGUSON: The factor?

MS. FASSINGER: -- the whole factor.

MR. FEES: Working on —

MS. FERGUSON: So really just have a subcommittee.

MR. FEES: Joan has indicated that she would be on that. Anyone else who specifically would like to flesh that out?

DR. BORDACS: Yes.

MR. FEES: Krisztina. Paul. Mike. Dave. You, as a group, might want to consider doing some pow-wowing at this meeting before we break tomorrow afternoon and figure out how you might coalesce your ideas together on this.

MR. JACOBS: Do you have a time frame as far as when you are looking for recommendations?

MS. FERGUSON: By the next meeting. Before the next meeting.

MR. FEES: Susi, did you want to be on?

MS. FERGUSON: It looks like they have a big group out there dealing with that issue. I will duck this.

[Laughter.]

Mr. FEES: I think that is issue two. If there are other —essentially, we are tabling any further discussion on this topic unless it comes back around on something else that we discuss. If there are others who feel that they have a completely different option or solution to address on-site recycling, I think you should put a position paper together and have that emailed to —send it to Michelle and have that sent out to all of the people. With that, I think we are going to move on to issue one.

MR. KOFFMAN: The way the rest of the day is going to go, just so you can revise your agendas, we are going to discuss issue one from 1:15 to 2:15. Then from 2:15 to 2:45, we are going to review item three, issue paper three. Then we will take a break from 2:45 to 3:00. Then from 3:00 to 4:15, we will discuss item three. So, to begin item one, I think we have someone who is going to —Michelle? Maria.

**Agenda Item: Review of Issue Paper and Discussion.**

MS. DOA: Item one on the issues paper and then there are two things, I think, that Michelle mentioned earlier. There are CMA's comments on the facility expansion and then excerpts from the final rule. The comments had to do —

MS. PRICE: I have extra copies of both of those if anybody does not have that. I mailed that out to you a couple of weeks ago. Does anybody not have that or cannot find theirs? CMA's Comments on EPA's Proposed Rule Dated June 27, 1996, and an excerpt from EPA's Final Rule, May 1, 1997.

MS. DOA: I think in the CMA comments, one thing that is very useful and I am going to refer to, there is a table in the comments. It is in this little thing. It is under issue one. Right now, Sections 8.1 through 8.7 of the Form R collect information on the quantity of waste that is managed on site. This is whether the toxic chemicals, whether the waste was generated on site or whether the waste was generated off site and sent to that facility that is managing it because it looks at the waste that the facility manages.

There has been some comment by CMA and some others that this double counts the toxic chemical and waste. EPA really does not agree with it; the focus of Section 8 is waste managed, not just the waste generated on site, but as we stated in the Federal Register notice, we think that the comments that CMA had made on maybe clarifying the distinctions are fairly useful. We wanted to talk about adding data elements similar to but not necessarily exactly to have an element for the quantity that was

generated on site, the quantity that was received from off site, and then the total waste management activities which would be the sum of all of the above. I think we wanted to see what the committee thought about that. They would be extra data elements, there would be more things to fill out, but I think that they would provide additional information that would be useful.

MR. CHAMBERLAIN: For the record, I support the CMA comments.

[Laughter.]

MS. DOA: Can we talk about specifically the data elements that are in the third paragraph of the page that says issue one. It says, "quantity generated on site, quantity received from off site, total waste management activities." Page two of the issue paper under issue one, three paragraphs down.

MR. KOFFMAN: I just want to get a sense for how we are going to proceed right now. We have had a description of the issue. Are there any questions about that before we begin what is going to be a discussion of interests. We are going to identify interests here. We are going to do that in an orderly process which I will describe soon. Are there any questions about the issue first? Do you have a question about the issue?

MR. ECK: I have a question about the term, and I do not know if it is relevant to the issue. I am not clear how quantity generated on site is intended to be defined by CMA or by EPA. I am asking for a definition.

MS. DOA: The quantity of material and waste produced and waste generated versus. Well, the distinction was made to be, for instance, if you are a facility that handles —maybe you have an incinerator, and you incinerate waste for other facilities owned by your parent company. All of that material that you receive and you incinerate, you treat it and say the chemical can be destroyed. You treat it. That would be material received from off site.

MR. ECK: Whereas the waste that I generate from non-incinerator plus the waste that I generate from incinerator —

MS. DOA: Correct.

MR. ECK: — even if —okay, so the question then becomes what about the slag from the incinerator which originally was part of what was off site and now is coming out of the incinerator in some bizarre form, essentially the same atoms but perhaps recombined, slag being slag. Which do I count the slag? Again, by way of example, is the slag generated on site? Is it received from off site?

MR. STEIDEL: But slag is not a 313 chemical.

MS. DOA: The components are, though, and they are going to be in waste.

MR. STEIDEL: You are going to have to determine the components in the slag.

MR. ECK: Then I guess the question that I am asking is —

MR. STEIDEL: Is it double counting then.

MR. ECK: Yes, from one point of view, the slag is a waste which I did not receive and which I have to deal with. So, the slag is going to go off site from my facility, from the incinerator, for further dealing. I guess I am trying to figure out how I would count that.

MS. DOA: Could we do this in two parts?

MR. ECK: We probably could. I just thought for clarification.

MS. DOA: No, I think I would like input on how people think it would be best to handle that, but I think we would first like input on what people think of the general

premise and then breaking it up.

MR. ECK: Sure.

MS. DOA: Is that fine?

MR. ECK: Yes, although in part what I think depends on how it is defined. That is a way to proceed. I can hold the comment.

MS. DOA: I think it will help me once I get this.

MR. KOFFMAN: Any other questions about the issue as it is defined, the terms? Do you have a question, Joan?

MS. FASSINGER: Just a quick question. Joan Fassinger, GM. As far as the amount brought on site from another facility, is that amount brought on site for waste management activities?

MS. DOA: Yes.

MS. FASSINGER: Okay, so if it is coming in as the raw material.

MS. DOA: No, that would not be.

MR. KOFFMAN: Okay. Yes, sir?

MR. FEES: In the third paragraph, you have, "Total quantity of waste managed" in parenthesis. I take that as a data element. Then you have, "Total waste management activities." Are they one in the same?

MS. DOA: Yes, they are. I am sorry, the second one should be total quantity of waste managed. That is incorrect. The second one should read, "Total quantity of waste managed."

MS. FASSINGER: Can I ask a process question?

MR. KOFFMAN: Please.

MS. FASSINGER: Would it be possible for the facilitator or someone as we get into these discussions to maybe very sketchily diagram the concept? I think diagraming helps us understand the numbers, if we are talking about double counting, where that potential lies. Can we do that.

MR. KOFFMAN: I can take a stab at it. Whomever else would like to, they are welcome, too, if that would be helpful. Do you want to begin by something like that? Would it be helpful if we could frame a question that we are going to try to address?

MS. DOA: Sure. When you mean diagram maybe —

MR. KOFFMAN: I do not know what she means.

MS. DOA: I do not know what you mean.

MS. FASSINGER: Like draw the facility and what is coming on site and what is coming from off site so that we can see as we are talking about double counting issues from both the facility and from the roll-up, the state's perspective or national perspective, how the numbers relate to each other. I think that makes it a lot easier to understand.

MR. CHAMBERLAIN: A basic flow chart. You might want to use this schematic here.

MR. BROMLEY: Hers is looking at a flow chart of saying facility, facility, where it is being counted.

MS. DOA: I do not know if this is going to help, but I am going to take a stab. Let me take a very hypothetical, so bear with me, scenario. Let's say you have 5,000 pounds of toluene in waste at your facility, generated at your facility. You have another 5,000 pounds of toluene that is sent to your facility. They both are at your facility. Then they are incinerated. So, they would be reported as treated on site. You have to take into account the quantity that is actually treated of the 5,000 pounds, and the remaining that

is released would get reported. The question is, where do we report it. If we have the waste that is on site, let's say we have a box for that, waste on site. It would be 5,000. The waste from off site would be 5,000 pounds. This would break down into the treated on site box and then to the released box. We will say it is either treated, and the residual is released. Is this what you are getting at?

MS. FASSINGER: I think the question is where the person who is sending the 5,000 pounds to the facility that you are reporting for, they are also reporting 5,000 pounds going off site for treatment. The question is, that 5,000 pounds is actually going to be counted twice.

MS. DOA: We do not think that it is double counting, and we articulated in the March 1, the preamble on that rule, because we think what you are counting is what the facility manages. The issue that we would like to get at here is a breakdown of what the facility manages, which portion of that was generated from off site versus which portion of that was brought by this facility for waste management.

MS. FASSINGER: That is okay from a facility perspective but when you roll those numbers up, then you get extreme over adding. If you do it like on a state, if you do total waste managed, in Indiana, that is going to be increased by 30 percent, a third.

MS. DOA: But that is if you do not look at it as what is being managed. It is tracking what is managed at the facility, and that is what we would like to look at, what is managed at the facility and what can we do with this committee to distinguish in Section 8, of all of the material that is managed at the facility, what was generated on site versus what was generated off site.

MS. FASSINGER: It sounds like two issues.

MR. BROMLEY: It is a separate issue. Are we going to address the other issue that Joan is bringing up, the double counting there.

MS. DOA: No. What we are going to do, what we are asking you to do is to address the issue of should we even go with what, for example, CMA has suggested in the comments breaking down Section 8 to distinguish between waste generated on site versus waste brought from off site for further waste management.

MR. CHAMBERLAIN: Maria, I guess depending on your perspective, if you were inside that facility and you asked that person, "What is the total waste managed on site?" the answer would be 10,000 pounds.

MS. DOA: Yes.

MR. CHAMBERLAIN: But then if you tried to step back away from it and then said that board is the state and you asked them what is the total amount managed in that state, you would get 15,000 pounds.

MS. DOA: Absolutely, but the facility that sent it to you, they managed it by sending it to you.

MR. CHAMBERLAIN: That is the double counting. Let me pose one thought. If you had a column in there that said waste managed on site but received from off site sources and you debited that out in your calculation —

MS. DOA: One could do that, sure, and it could be useful for that, to do that sort of analysis.

MR. CHAMBERLAIN: You are going to have to have another column in there to net it out somehow.

MS. DOA: If you just have —I mean the net you are talking about is just what is generated on site.

MR. CHAMBERLAIN: But the total number, what you have on that paper is you have 10,000 pounds on that board.

MS. DOA: I understand, and this looks at the materials that are managed on site. If you wanted to take the data and look at, say in Michigan, and you said —  
[Simultaneous discussion and laughter.]

If you want to just look at material generated on site, then assuming that this person is a reporter who sends it to you, and you can look at what they generate, and you can look at what this facility generated.

MR. KOFFMAN: We have Paul coming up next and Corey.

MR. ORUM: I think this would be really helpful if you had these three elements. I find myself in the rare position of agreement with CMA on adding these. It would do two things: one, allow much better analysis, more intelligent analysis of this exact issue here of what is generated on and off site and then two, it would help to add the sum of the waste management activities which would help immensely in trying to explain the program. So, that is just a general endorsement of the idea.

MR. KOFFMAN: Susan, I think you —did you still have something that you wanted to say?

MS. FERGUSON: I was just going to say that at a state level, it would roll up to 15,000. I would see 10,000 managed and disposed of at one site and 5,000 going off for disposal. So, it would roll up a little differently.

MS. DOA: Right. One could roll it up that way if you look at all of the material being managed in the state. One could break —do not look at absolutes because one person is managing 5,000, another person is managing 10,000. There are different ways —well, it is the same 5,000, but one facility is managing 5,000 and another —a couple of people are managing this 5,000. It is going from one place to another.

MR. CHAMBERLAIN: But if you ask me to report how much did I manage at my facility, it is 10,000. I do not have a problem with that.

MS. DOA: Right.

MR. KOFFMAN: We have Andy up next and then Ken and then Corey.

MR. COMAI: I think one of the useful pieces of this data, serving on a local emergency planning committee in Washana County, the number of truck accidents has gone up. The number of chemical spills has gone up a couple hundred percent in the last three years. Why is that. Well, there is more stuff on the road. People are sending things around more. Is there a way we can set up this database so that people can track that sort of information. How much material is received from off site in a certain community or in a certain county. Is this what we are supposed to be —I think the CMA three points would help to do that, but then when it says in the CMA comments that all of the onsite activities would be included in any aggregate, I do not know if I am reading it —

DR. BORDACS: If you are mapping it out, then you could add the difference for your county, your state, whatever.

MR. SKERNOLIS: You are only picking up the waste portion. It is a very, very small increment of the problem that you are addressing. You are not talking about the product. The vast majority of spills are not waste; they are product.

MS. DOA: Could I respond to that. How the data are analyzed —let me say about some of these comments. We just asked for comments and then our response, but I think the useful part of this is —it is all useful, but the part that I would like to highlight is the data elements. I think those are the things. As I said, we like waste managed, all

of the waste managed. I think that some of what you are talking about you can get at from looking at materials that the facility like Washana County receives from off site so that you can get an idea of what is traveling on the road going to that facility.

MR. KOFFMAN: Ken, you were next.

MR. GEISER: I also like this as a solution because I think that it gets at this question of reducing the question of double counting of the waste, but I am open and trying to explore in my mind as I am doing it the possibility that it would also miss waste. I would invite people to try to think about if we did it the way it is here, whether you actually end up not counting in the aggregate, in the state aggregate or the national aggregate some waste. I was trying to think, is there any way that that could happen. Test me on this. Is there not the possibility—the idea that I think the assumption we are making is if you send a waste off site, those molecules are going to end up in somebody else's operation, and you are going to be able to count it only once, either at the point you as A send it off or B, how you net it out at B. What happens if the waste that was received at B came from TRI chemicals that were not reported as waste, and they were sent off site at a bunch of different As who were below threshold so that they did not report under the TRI. When you net it out then, it seems to me that you would miss that waste, right? Am I right on this? Is there any other way that you would—it is not a problem at the facility level but it might be a problem if you received wastes that were not tagged at somebody else's facility under the TRI system.

MR. KOFFMAN: Do you have a response to that, Jon?

MR. STONE: I have a response to that.

MR. KOFFMAN: I think, Paul, you also did?

MR. STONE: Even if it is a minimal quantity, if you are sending it to a responsible disposal site, they have a profile of that material, the percentages, even if it is a five-gallon bucket. You have a manifest, and it is gone. So, you have a manifest of your copies of what you sent. They have received it. If it is only five gallons, their computer in the course of time, will roll up all they have received. If they have a reporting thing, then they will still report it even though you do not have to report it because you sent a minimal amount out.

MR. GEISER: Wouldn't it be reported as waste received, under this system, waste received from off site and then you would net that out inappropriately when you aggregated the state?

MR. STONE: The generator would not have reported it but the receiving site would have, so you would still get the total count.

MR. SKERNOLIS: Can I make a point of clarification.

MR. KOFFMAN: Sure, clarification.

MR. SKERNOLIS: The only information you will have are on the constituents that are identified in the manifest, and there is no mandatory requirement that all amounts be on the manifest. Secondly, the constituents on the manifest are record constituents not TRI constituents. If they happen to be the same, that is true, but otherwise you are right. None of your concerns are in this.

MR. KOFFMAN: Paul, I think you were next.

MR. ORUM: If the generating facility is a reporter under TRI and for whatever reason the receiving facility is not, if you did attempt to do this type of aggregate analysis, that only based on what was received and managed, yes, you would lose that information. However, you would still have the sum total, much more accessible, of what

was generated at the original facility. So, I think there would be a way—I think that it depends exactly a little bit on what data elements you use as your analysis. Yes, you could do analysis using these data elements that would make certain things disappear, but you could also do analysis that has the whole picture.

DR. BORDACS: The whole picture would be still there. It would be deducted to show what was really generated on site.

MR. GEISER: You could always find it. That is right, you could always find it. I am just wondering, I assume it is such a small amount that it is not a big problem.

MR. KOFFMAN: Corey?

MR. BROMLEY: I just have a question. Maria, does EPA and the PDR report on a state level the total right now that would include the double counting?

MS. DOA: I do not think it is double counting.

[Laughter.]

MR. BROMLEY: Let me ask it this way. Would they report, on that sheet, 15,000?

PARTICIPANT: The answer is yes.

MR. BROMLEY: I am curious and the question is, how do they report that 15,000? We see 10,000 pounds of waste but does EPA report that 15,000, and how do they report that as 15,000? That is a question. I do not know.

MS. DOA: In the—you know, when everybody says “PDR,” I think of the Physician’s Desk Reference. I am sorry.

[Laughter.]

PARTICIPANT: The chemical list is about the same.

MS. DOA: I’m sorry. I have been listening to it, and it just sort of—the total waste managed would be aggregated across the state, so 15,000.

MR. BROMLEY: Reported as total waste managed.

MS. DOA: Right.

MR. BROMLEY: Because that is how it is represented in the PDR.

MR. ECK: You actually report that total waste managed as a category? I mean, I know there is treatment, energy and recycling.

MS. DOA: Right.

MR. BROMLEY: I think that may be just an issue that needs to be addressed with this additional data element that people are talking about is that part of that issue is how it is reported in your data release.

DR. BORDACS: If you netted it out and reported it as total production generated waste, then you would eliminate the double counting.

MR. BROMLEY: I just think that it is—if it is reported now as total waste managed, that is a subissue to this additional element that needs to be addressed.

MS. DOA: I think, I mean, given these three data elements, we could do a number of things. We could look at the total waste generated as reported, the total waste managed, and the total waste that is sent off site for somebody else to deal with. Now, this last one, we try to get at by looking at the Section 6, but when you transfer it off site, you have to report to whom you send it. Often, the addresses are so poor that the data is of limited use. This would give you some better quantities.

MR. BROMLEY: I would just present out. I think that is an issue that needs to be addressed with the additional data elements, how it is reported later.

MR. KOFFMAN: Joan, Michael, Susan.



MS. FASSINGER: I think from a facility perspective, this does provide really good information, and I do not think that we have any argument that it is good from a facility. I am just looking at the press release. Knowing that a lot more industries are moving up the P2 hierarchy and doing a lot more recycling, and the press release says that although releases of pollution continue to decline, generation of toxic chemical waste continues to increase. Then it has in 1995 volume of toxic waste containing TRI chemicals was over 35 billion pounds. Since 1991, there has been a 7 percent increase in waste generation. So, it does not say waste management. By totaling, that indicates even though industries are going to better management practices and recycling, again, it indicates an increase. So, this is a genuine issue, and it indicates a 7 percent increase in generation in waste, but it could actually be a 35 percent decrease if you are going through that loop 10 times. It appears that the issue is not so much how to represent the waste management at the facility, this looks fine, but in rolling up the numbers—I know we talked about this extensively as Paul said in our last group, as the new industries especially are brought in, how we balance that out. If you are doing loading on an ecosystem or if you are ranking by state or again as more and more facilities try to get into better management practices and do recycling to avoid creating new risk, and this goes through ten times, it is grossly overcounted. So, it seems that the issue is that we need to find a way to total these up and find a good methodology to come up with totals that are representative of what is actually out there, not how many times it goes through.

MS. DOA: If the committee—I mean, I think it is fine for the committee to address that because I think it is a separate question than this is. Even given that, I would still like to get back to this. It is something that we can address.

MR. KOFFMAN: Michael.

MR. ECK: Thank you. With regard to the double counting issue, as both Corey and Joan pointed out, that is not a facility issue, that is an aggregate issue. It is still very much a part of right to know for the neighbors of the facility to know what chemicals TRI are rolling through there, and so the idea that has been proposed that only the generators of the waste transferring the waste off site report the waste is really not providing right to know to the neighbors of the waste management organization who would frankly like to know, regardless of where that waste came from, how much of what kind of waste is going through that waste management organization. Given then that this is really an issue of essentially the public data release and how the data is combined, I am not sure it justifies a change to the reporting form, number one. Number two, because we are introducing terms on the reporting form which are not on the form; they are in the PDR. For example, waste management, waste generation. Waste is not a term on the form. Treatment is on the form, waste treatment, but there is no total waste. There is no idea of waste generation especially, which is, I do not think, a term that has a meaningful definition in EPCRA. I think it has a meaningful definition in RCRA, but that is not really useful to us here. So, I am very reluctant to open up that issue to solve a problem that may be solved by changes to the PDR, by cautions in how EPA totals material, by changes we discussed in talking about the December summary. Done.

MR. KOFFMAN: Susan.

MS. FERGUSON: I think that my remarks follow up on Michael's pretty closely. Managed is an emphasized term, and you have more precise terms to use, so you do need to be careful when you pull the information together for the purpose of public release. That is where I would see the concerns really expressing themselves.

MR. ORUM: What concerns?

MS. FERGUSON: Whether an audit comes across as 15,000 pounds versus 10,000 pounds of material and how it was managed and handled. Looking at the original Form R to the proposal from CMA, I see a new data element, so I do not think that we would lose anything, again, but I think you have to be very careful in terms of what you are conveying because I see the possibility not just in off site/on site but in the recycle issue we talked about earlier, too, in terms of representing a perhaps total volume of chemical that is not at a location or in a county.

MS. DOA: Would you say that last part a different way? I am sorry that I did not understand it.

MS. FERGUSON: At the receiving facility, in the off site/on site item, you are only dealing with 10,000 pounds of materials containing your toxic chemical being treated and disposed of. You do not have 15,000 pounds being treated and disposed of. Depending upon how I aggregate that information, one company is saying that I have 5,000 going for treatment, another company is saying I am treating 10,000. It may come across in a record as 15,000 pounds being treated. If those companies are side by side, as happens at some plants in Texas, the value for that county looks like 15,000 not the 10,000 that is being actually treated there.

With respect to the recycling issue, the similarities I see is if 1,000 pounds is rerun five times, at any one time, they still are just managing 5,000 pounds. On a particular site, they do not have 5,000 pounds that if we are not careful, we would be reflecting looks like that at a particular location in a particular county.

MR. KOFFMAN: I have Tom and then Paul, Maria and Joan.

MR. NATAN: My comment goes to what Mike said. The Pollution Prevention Act does ask for reporting the quantity of essentially waste, production-related waste or the amount of waste generated before recycling, treatment or whatever. Adding them, yes, Form R does not have that, but it ought to have that total. That clearly is in the Pollution Prevention Act. Then the fact that some of that waste came from off site becomes important. That, I think, is the reason that people are supporting this. The fact is, it is going to be aggregated, and the Pollution Prevention Act does specify it that way.

MR. KOFFMAN: Okay. Paul and then Maria and Joan.

MR. ORUM: The specific language in the Pollution Prevention Act is 6607(b)(1), the quantity of the chemical entering any waste stream, a parenthetical about otherwise released into the environment prior to recycling, treatment and disposal, et cetera. The quantity entering a waste stream is the actual language. I think —

MR. NATAN: So then receiving from off site should not be included under that definition.

MS. DOA: No. I disagree.

[Laughter.]

MR. KOFFMAN: Since it is your turn.

MR. ORUM: I think EPA has already spoken to that issue. I do not see fundamental things changing here. What you have is a better way of making the distinctions. I do not see this as an opportunity to argue that something shipped off site should not be reported or something received from off site should not be reported because then it would be reporting nothing because it all came from off site.

[Laughter.]

I do not see this as a way to change fundamental things. What it is is that it makes it much more accessible and enables you to do these different analyses so that you can really get at the questions you are asking. That sum total box is basically what has generated your incentive for source reduction. That is your national incentive for source reduction insofar as it is covered by the toxics release inventory.

MR. KOFFMAN: Maria, did you have something that you wanted to add?

MS. DOA: Yes, and I think Paul probably said some of it, but what I wanted to state was that I know some people wanted it to be aggregated. The question that I am asking or we are asking is really can we break this down any way that would be useful, will it help some of the—I would call them perceived problems or the perceived double counting, but I do not actually think there is double counting.

MR. KOFFMAN: Joan, you are next.

MS. FASSINGER: I guess I would like to make a couple of points and then maybe throw out a suggestion. One is, when the PPA was written, they probably did not have the additional industries in mind. So, that counting of the amount of toxic chemical going in prior to these other activities was intended for the primary generator of that TRI chemical and waste. That might be one thing to consider as we go through.

As far as double counting, I guess a suggestion might be, you know, I do not disagree again with Maria. I think this is a good way to characterize what is going on at a facility, but the issue is still as you aggregate this out, there is a concern. Perhaps we could, and I hesitate to do this, add another data element as primary generators would report but they are kind of the first step in a chain of command of this chemical, and then when the totals are aggregated, you would only count the primary generators for your total waste managed. If you are recycling on site, your primary number would be that one time number and then you would total the total going through, but that information would still be available on a facility level to help better explain what is going on at the facility.

MR. KOFFMAN: We have Michael next and then Wilma.

MR. ECK: In the continuing dialog, in response to what Tom and Maria both said, we do track waste management on site, but the waste is defined by how it is managed. In short, you ask in Section 8 to tell how much you have treated, how much you recycle and how much you recovered. You are not asked to tell waste generation, and you are really not asked to define waste other than by how you are managing it on site and how you transfer off site. I am aware that the Pollution Prevention Act does call upon EPA to define waste for EPCRA purposes. I believe—I guess my caveat would be to go forward with this scheme, and I am not completely opposed to it, I want a very, very clear and rigid definition of what EPA means by waste generated on site. I want it first. I want to know what you are talking about. I can probably think of ten good exceptions for peculiar situations where I would have trouble distinguishing a waste, what you mean by waste generated on site and when exactly is something a waste. How nervous do I get with what contradictions there are between RCRA definitions and EPCRA definitions of waste generated on site and where are we in two years trying to resolve that.

MR. KOFFMAN: Paul has something right on point.

MR. ORUM: On that point, however EPA defines those issues, as I see it, will remain the same. What you are doing is basically adding up the boxes that are already reported. That is the only thing that changes. Whether EPA has a very effective or very ineffective, in the end, definition of what is recycling, what is energy recovery, what is treatment and so forth does not change. That is a fundamental that in fact we have debated

for years and may be back debating for years. All we are talking about here, as I understand it and Maria can correct me is you are adding up what is already reported.

MR. KOFFMAN: Okay, if there is not a response to that, we are going to go to the next person in the queue which is Wilma.

MS. SUBRA: From the citizen's perspective in Louisiana and around the Gulf Coast, just having the information about how much waste from off site is managed at a particular site is really important because we have petro chemical facilities that propose to generate various petro chemical products but in fact have some waste disposal facilities that they claim to be non-commercial, and then they start taking from their sister companies, and they may start taking from other companies. So, a large quantity of the waste is not the waste that they in fact generate from their production but waste they bring in. So, for the citizens living around these facilities knowing how much of this waste is actually coming from off site is very important.

MR. KOFFMAN: Thank you. Mike is next.

MR. SPRINKER: Perhaps having just been new to this committee and missing the previous things, there may be something that perhaps I am not really understanding well. That may be some of the basic questions that we are trying to answer, some of this basic data that we really need. There has been some discussion about now that a lot of companies are moving into the pollution prevention hierarchy, how do we best track the performance overall of all of the TRI reported through both on a plant, a local area, statewide and nationwide basis, and are there some things that we should be tracking to allow us to say, hey, are we getting better as a plant and area at managing some of this waste more efficiently or are we getting worse at it. Maybe if we put some caveats into the PDR, that still does not give us any—that would not necessarily give us any hard information to say well, you know, these results may not be overall as good as we wished because one person's waste is another person's input or maybe several other people's input. Maybe everyone already understands this but what are the things we really need to get, and maybe we should look at that as to crafting how do we really best track it.

MR. KOFFMAN: Any other comments? All right. As I understand it, the question that Maria is posing is essentially to break this down, that is the waste managed, can this number be broken down in any helpful way to alleviate, from what I heard you say, perceptions that may be out there. Is that a fair statement of what the question is that you are asking for input on?

MS. DOA: Yes, but could I ask a question?

MR. KOFFMAN: Sure.

MS. DOA: I do not know about procedures. Do I need to do a little bit of extra work to maybe make Michael feel more comfortable?

MR. ECK: Do you mean now or?

MS. DOA: You said before we wanted to go forward with this idea, you wanted to know what the limits are on waste, the generation on site versus off site.

MR. ECK: You would not necessarily have to do it for us to go forward with this recommendation as long as our final reports made changing the Form R dependent upon very clear definitions.

MS. DOA: Oh, sure. Sure.

MR. ECK: To a certain extent, I can go along with the decision as long as I understand what you are saying.

MS. DOA: Sure.

MR. ECK: When the time comes to report.

MS. DOA: Okay.

MR. KOFFMAN: Corey.

MR. BROMLEY: Can I ask another question. I am confused. Where are you talking about on the form of having an additional on site/off site?

MS. DOA: On the form? In Section 8.

MR. BROMLEY: You are adding a whole new line rather than breaking anything out.

MS. DOA: Right. We are looking at three new lines, total quantity of —let's say 8.1 through 8.7, the amount or percent of that total that was generated on site and the amount that was received from off site.

MR. ECK: Do you add those up with any of the others?

MS. DOA: The last two are a subset of the first extra data element. So, if you total up 8.1 through 8.7, CMA has some other things for Section 8.1, but I am using the — if you look at their table.

MR. ECK: What do you add 8.8 up with any of the other seven at all, ever?

MS. DOA: No. No, because the total would be the sum of 8.1 through 8.7, and then you would have two additional boxes that would be subsets of that.

MR. ECK: [Commenting off microphone.] This particular sum would only add, I suppose, by sector, by state, by county. [Commenting off microphone.]

MR. BROMLEY: Just more for clarification.

MS. DOA: Right. I mean, is it clear?

MR. ECK: I think so, yes. This does not affect our facility.

MS. DOA: The way that I would do it here, if you look at the chart up there is that the facility managed 10,000 pounds of toluene and the way this would work, some of it would be in 8.1 and some of it would be on site treatment. The total would be 10,000 pounds. Then the amount generated on site would be 5,000; the amount received from off site would be 5,000. So, the last two data elements would add up to the one before it, and 8.1 through 8.7 would add up to the first new data element. I'm sorry, maybe that sounded very confusing.

MR. KOFFMAN: Yes, Edmund?

MR. SKERNOLIS: Just to go back to the double counting thing. Maria, is it your point that if you roll up the numbers and you are concerned about double counting, you can always roll it back out. I mean, on any kind of formal accumulation. You cannot keep an ad hoc query from totaling numbers to come up with a number that does not make any sense, but you can back out the numbers for any official release of information.

MS. DOA: Right. Yes, that is a separate question. Yes is the answer, but that is a separate issue, what we do and the data release with this.

MR. SKERNOLIS: Not only data release but any kind of —

MS. DOA: Sure.

MR. SKERNOLIS: —I mean even if the state wants to do it, they can always back out the double counted number across any kind of roll up sector, county, whatever.

MS. FERGUSON: If it is flagged. If you have the distinction between off site/ on site, yes.

MR. SKERNOLIS: The proposal is that you would have all three numbers, the total and then the two breakouts. If you want, you can only, at least in this example, if you decided to do a number of waste managed, you can choose to only roll up 8.8.2 and

it would be accurate.

MS. DOA: Right, across the —sure, you could do any sort of —

MR. SKERNOLIS: That is what I am saying.

MS. DOA: Yes. With the new elements.

MR. SKERNOLIS: Right.

MR. KOFFMAN: Any more comments on this?

MR. ECK: Oh, sure, why not?

[Laughter.]

MR. KOFFMAN: Go ahead, Michael.

MR. ECK: I'm sorry, I must have woken up after lunch. I was so quiet before.

As I get deeper into this and as I understand it, in CMA's proposal and EPA's info paper, at least as I understand the term "managed," there is no double counting implied by the term "total quantity of waste managed" because basically this is all of the waste that is going to a particular facility. There is, perhaps, if instead of managed we were talking total quantity of waste generated, there might be a double count in issue here. So, do we necessarily need the breakout generated on site. My complaints are not so much with 8.8.1 and CMA's proposal, total quantity of waste managed, but with 8.8.2, the idea of waste generation on site being a sort of undefined term.

MS. SULLIVAN: I guess in response to that, I have no rocks in this fight either, or a dog in this fight or whatever. On CMA's proposal, it never says waste. I think that is something that we should get clarified here. The CMA, they are talking about quantities of toxic chemicals.

MR. ECK: Incorrect. Incorrect. In their definition, page 11, they say 8.8.1 is total waste management activity. Page 11, CMA.

MS. SULLIVAN: I do not see it in the chart. We should ask CMA what they mean. Do they all mean to have waste or that toxic chemical?

MR. ECK: CMA's proposal, as printed by EPA, is page 11, the second bullet on the page, "Section 8.8.2 be revised as follows."

MR. ORUM: Actually, they say total waste management activities, which is meaningless, so it is a good point that you have raised.

MR. ECK: It is the total of those things that are reported as entering waste streams.

MR. ORUM: Perhaps that is what they meant. Waste management activities —

[Simultaneous discussion.]

MS. DOA: I am sorry. I did not mean to confuse anyone, and if I did, it was unintentional. This was meant to be illustrative. We do not want to go with everything CMA has said. This is what I think that I alluded to earlier with a comment that Andy had made. We are really looking at adding three data elements: the total quantity of waste managed, which would be the sum of Sections 8.1 through 8.7 in the Form R right now. Then to take that sum and to split it into two quantities, the total quantity of the toxic chemical and waste generated on site and the total quantity received from off site further managed on site. I apologize if I muddled the waters.

MR. KOFFMAN: That is essentially the proposal? Is it fair to say it that way?

MS. DOA: It is, right, the proposal to take the quantity of waste managed right now and to break it down.

MR. KOFFMAN: To break it down further into on site and off site generated.

MS. DOA: Correct.

MR. GEISER: Your proposal is to sum it up and then break it down.

MS. DOA: Correct.

MR. GEISER: There are two pieces to it.

MS. DOA: Correct.

MS. SULLIVAN: I guess just in response, it sounds like the sticking point may be when you say “total quantity of waste generated” and Michael says waste has to be defined. Are we talking about waste or the TRI chemical?

MS. DOA: It says here a chemical and waste because they are in waste.

MR. ECK: It has to be waste because TRI chemical generated starts to imply manufacture and makes no sense. I guess that was my original concern that somehow from chemical use we are now talking waste generation. If that is a step that we want to take, it is a hell of a big one.

MS. DOA: If you manufacture —I am sorry.

[Laughter.]

MR. KOFFMAN: Maria and then Mike.

MS. DOA: Sorry, Mike. You may, in treating one chemical, manufacture a second chemical, and the only way you manage that chemical on site, we will say, is through disposal or through further treatment. That would be both manufacture of the chemical and waste because you have to manage it in a waste management activity through release or treatment or energy recovery, recycling. Does that get at it?

MR. ECK: No, not —

MS. DOA: Sorry, I misunderstood.

MR. KOFFMAN: Mike, Joan and Andy.

MR. SPRINKER: I do not think that we are talking about eliminating, if you would, I hate to use the word double counting because on a facility basis, it is not double counting, but I think Andy’s point earlier about there is a lot of value to know and also Wilma’s, there is a lot of value to know just how much is being dealt with at each site. Once you are transferring from one place to another, there is that act of transfer also. So, it is very useful to have that, be able to look at that from an overall group of plants in one area. I think it is important to understand and the public understands what that means. At least to some degree, it gives us some idea of how much stuff, really how much waste is moving around in and out of these different plants as a total basis. I hate to lose that aspect also; that is an important aspect to keep hold of, understanding its limitations.

MR. KOFFMAN: Thank you. We have next, I think it was Joan.

MS. FASSINGER: I have a request to make. I would like to request that on a facility level, we decide on this issue, and then ask the state representatives to maybe take this and provide a demonstration as to whether on a roll up the data elements here would be able to prevent double counting and bring that back to the group. That seems to be the sticking point and perhaps the states, in your roll-up, you could show how this might help, if it would or would not address that issue.

MR. KOFFMAN: Okay, so that is a proposal. Andy, you have a comment.

MR. COMAI: I do not know where this fits in. I am just going to throw it out and see if there is any response. If you have a number of facilities that are generating solvent waste, they all send it to a central recycler. The central recycler distills the stuff. He has still bottoms, some gunk that goes into a barrel that gets burned off site for fuel recovery. Some of the material might not be recyclable, per se, so he sends some off,

blends it into an industrial fuel for boilers. I have a little schematic here, but I cannot really tell what it says. The idea that you are double counting that material that was generated at five facilities, and then there are some still bottoms that are generated. I do not think that is double counting if you could say they generated this amount of waste, they sent off site, and then the company that did the recycling or whatever also generated some waste, a smaller amount. I think you should aggregate that and say that that is the waste generated. Does that make sense?

MR. FASSINGER: I think, Andy, that the issue comes in because you counted recycling in there. Maybe another option would be to not include recycling.

MR. COMAI: Or fuel saved because it is strictly fuel blending.

MR. KOFFMAN: Okay, well, I think that we are going to need to move on. We do need to draw this one to a close, and I am not quite sure where we are. Just in listening, I have not heard a great deal of outright opposition to the motion of breaking this out in two ways, then breaking it further as generated on site or generated off site. I have heard a couple of proposals, one of which is the states take it back and assess how that would impact them, essentially. Is that correct, Joan?

MS. FASSINGER: On a state level.

MR. KOFFMAN: Yes, David.

MR. FEES: I represent a state, and I would be willing to put my viewpoint on that. Frankly, I am going to see it the way that EPA sees it about waste managed. I think do some textual qualifications of that. You could also do waste generated on site. You can indicate if they are different and why are they different and explain those differences, but I would not report—I would report waste, total statewide waste managed as the total amount.

MR. BROMLEY: As the total amount so that if it is managed twice?

MR. FEES: Yes.

MR. KOFFMAN: Then having ways to break that out according to the proposal here.

MR. FEES: You learn something by having the off site/on site, generated on site as opposed to received from off site, which helps explain somewhat.

MR. ECK: Could you have the total waste managed and a total waste generated on site?

MR. FEES: Yes.

MR. ECK: Those two numbers would not be the same.

MR. FEES: I would probably indicate both of those—

MR. ECK: That is what I mean.

MR. FEES: -- in the report and then in the text of the report, to indicate why these are not the same, because of this issue of materials that flow from one facility to another and possibly even to a third.

MR. KOFFMAN: I think Susan still had a comment, then Michael, and then we are going to have to wrap this one up. We will see where we are. Susan.

MS. FERGUSON: The concept of rolling all of the numbers up into management having full agreement is where I think I depart a little bit. I need to think through the toxic chemical being treated, recycled, disposed aspects and what that means and is that indicating something to people that is real and not real. So, I am not sure that I agree with the concept that everybody agrees with rolling it up under management and breaking it out into two. My concern about aggregation was we look carefully at those



categories and make sure that they really mean something appropriate. I can understand why people are saying it is duplicate counting. I can understand Dave's position. Yes, it is managed here, it is managed here, it is managed here, it is managed here, and it all rolls up. I do not know that I agree with that statement that was put up.

MR. KOFFMAN: Michael.

MR. ECK: A question for David and for that matter for Maria as EPA. Would you apply the concept of source reduction to 8.8.1 total waste managed or only to 8.8.2 generated on site or to both or to all three. Where does source reduction, in spite of the fact that you are already talking about —you may be talking double counting, and you are talking about toxic chemicals which are recycled on site and off site.

MR. SKERNOLIS: I thought that was one of the original purposes of this statement, was to allow you to make that application of source reduction to the on site generated. I thought that was one of the original reasons that we were even talking about doing it.

MS. DOA: Paul has the PPA, and he can actually read the definition of source reduction in there.

MR. ORUM: Definition of source reduction.

MS. DOA: It says, "Source reduction is."

MR. ORUM: Actually, it is the preamble that is most useful.

MS. DOA: Right. Right. There is a description of it, how is that.

MS. FERGUSON: Policy? Is that what you mean? "The term source reduction does not include."

MR. ORUM: I am not sure exactly what you want me to read. In the findings, there is an excellent explanation of why, for example, source reduction is fundamentally different and more desirable than waste management and pollution control, and so on and so forth. So, this number represents your incentive, the total amount entering any waste stream, in 6607 (b)(1) is basically your incentive for source reduction. Of course, if you have a hierarchy, it does not mean that is the only thing that you can possibly do. I think the question of whether it is on site or off site, clearly it is the originating facility that has the incentive to benefit from source reduction.

MR. FEES: Because they are the source. By the definition, source is that primary.

MR. ECK: So you are applying source reduction primarily to —

MR. FEES: The primary source.

MR. KOFFMAN: Okay, so we kind of need to wrap this one up. We are a couple of minutes over. I would like to look to Maria to get some closure here, and I believe that what you —if I understand it, Maria, what you would like to know is the form as it is presently presented with two additional things, generated on site, generated off site.

MS. DOA: Three additional things.

MR. KOFFMAN: What is the third?

MS. DOA: The total.

MR. KOFFMAN: Total managed, generated off site, generated on site. I would like to see a show of hands from those of you who feel that this is an acceptable way to proceed. A show of hands. We are proceeding and trying to get a consensus. It does not mean everybody, but we certainly want to know. The concerns and the statements of those who want to do something else, obviously, are going to be recorded and taken into

consideration. Maria, was there something else that you wanted to get a sense of before we move on to the next issue?

MS. DOA: I do not think so.

MR. KOFFMAN: That is what we are going to do. We are going to move on to the next issue which we are going to look to—who is going to describe that one?

PARTICIPANT: Can we break?

MR. KOFFMAN: We can break, sure. We can do it either way. Please be back here right at 2:30.

[Brief recess.]

**Agenda Item: Discuss Item Three.**

MR. KOFFMAN: If we could get started, we are going to now take about 30 minutes to review the issues paper on item three. Then we will take an hour and 15 minutes to discuss that. No.

MR. FEES: Michael from EPA is going to give us an explanation on issue number three.

MR. KOFFMAN: What is your last name, Michael?

MR. HART: Mike Hart.

MR. KOFFMAN: Mike Hart from EPA.

MR. HART: Thank you, Neal. Hi, I am Mike Hart. I am with EPA in the TRI Branch, and I am here to introduce issue three, which is how quantities transferred to communities that these could be reported in the Form R. Right now, transfers to POTW are reported under 6.1 as well as Section 8, 8.7 specifically, unless they are TRI metals and metal compounds which would then be reported under 8.1.

I guess there are a number of commentators who noted that this is not necessarily a very accurate picture to report under 8.7 because it indicates that the chemicals have been treated with 100 percent efficiency. To address that, there are a couple of options before the committee to discuss. In the interest of improved accuracy, let's just look at the first option which would be to report chemicals transferred to POTW. A value would be determined for the actual percent that was treated by the POTW versus the amount of the chemical or the quantity of the chemical that was either released as a pass-through or volatilization or absorbed, then absorbed to solids and perhaps trucked off as soil measures.

MS. DOA: The second option.

MR. HART: I'm sorry, the second option is to consider at a POTW, if it is believed that greater than 50 percent of the quantity of the chemical would be treated, then they would report it as if all of it was treated. Then conversely, if there was less than 50 percent efficiency, it would be reported as a release and not treated.

In addition to the issue paper, Mr. Robert Steidel has prepared an issue paper of his own, and I will just introduce it by the title, "POTW Transfer Reporting, TRI Chemicals, Recommendations for Modification to Report Released to an Environment."

MS. DOA: Can I add something?

MR. HART: Sure.

MS. DOA: I just wanted to add a little. Point one represents transfers, and 8.7, the way it is being reported now in 8.7 is incorrect. It was put in 8.7 in the beginning because it was expeditious, and actually the EPA, we believed that we would get back to the Section 8 sooner. We really would like to improve the accuracy of the data that is reported in Section 8, and that is certainly one of the reasons why we are looking at how

POTW —transfers to POTW's are reported in Section 8.

MR. KOFFMAN: Questions? Yes, sir.

MR. SKERNOLIS: Is there any reason why the same theories cannot be applied to 6.2?

MS. DOA: I think the difference between 6.2 and Section 8 is that in 6.2 you report the material going off site and to the best of your knowledge what is happening to it. It is being recycled, it is being treated, incinerated or whatever. In 6.1, it gets reported as transferred. There are some chemicals that are really not going to be treated at any large extent, but they get reported in 8.7. So, I think that POTWs in terms of Section 8 are reported differently than what is being reported in 6.2. It is not an issue of breaking it down like let's say 80 percent of it gets treated and 20 percent of it ends up being released. It is not so much a question of that, even if the majority of it would be released, we are still instructed, except for the metals, to report it in 8.7.

MR. SKERNOLIS: I was not speaking of how you deal with the number in Section 8 as the theory behind —or at least the two approaches for how you break out between release and treatment in 6.1. In other words, you either use a secondary treatment methodology or algorithm of some kind or you use a 50 percent approach. Why cannot that same theory be applied to an organic, say to an incinerator. In other words, what is it uniquely about the treatment at a POTW that suggests that the only viable way to use this approach for breaking out releases versus treatment is a POTW?

MS. DOA: I think it is sort of confused because I think if you are sending it off site to an incinerator, it is going to be destroyed. You will report it in 8.7 in Section 8. That is how it should be reported. Maybe I am misunderstanding your question.

MR. NATAN: I guess he is questioning treatment efficiencies at all sections. I think your point is that a POTW is different than that, that some things go to a POTW that if you bothered to take them out, you would not send them to a POTW, you would send them somewhere else, that they would recycle it or do something else to it. The fact is that they still go there, so that, I think, is the difference. The rest of the waste, when it goes to recycling or into recovery or treatment, you are sending it there because you have a reasonable certainty that it is going to be taken care of in that way, and that the greatest possible efficiency or the greatest possible extraction or the greatest possible treatment, that is not necessarily true —well, it is not true at all when you send metals to a POTW.

MS. DOA: Also, if he sends let's say, and maybe Robert can please jump in if I misspeak at all, or Michael. If you send something —you send the stream to the POTW, and the POTW treats that stream, but it may do so by volatilizing chemicals. Chemicals may volatilize. That is a release.

MR. SKERNOLIS: So there is no destruction.

MS. DOA: Right. So, we are trying to —

MR. SKERNOLIS: If you are sending an organic to a destruction treatment in 6.2, why cannot these same principles apply?

MR. SKERNOLIS: Just to expand on that, you can send it to a contract waste water treatment facility. So, that would be reported in 6.2, so any of the concepts regarding treatment and destruction and treatment in 6.1 can be logically transferred to - the concept can be taken to 6.2 also.

MS. DOA: For the waste water —

MR. SKERNOLIS: For those types of waste treatment.

MR. SKERNOLIS: These are constituents, right? They are not waste water,

they are constituents.

MS. DOA: Right, but right now if you send —let's say you send toluene to an incinerator. You should report that in 8.7 —

MR. SKERNOLIS: Right.

MS. DOA: — because to the best of your knowledge, the majority of it is going to be destroyed.

MR. FEES: It is a matter of treatment efficiencies. You are talking about some of these treatment and recycling and energy recovery systems. We are talking about 99-plus percent whereas for waste water treatment plants, now we are talking about 0 percent to 30 percent, maybe 50 percent or maybe up to 90 percent on some things, but there is a big range of efficiencies.

MS. DOA: Right.

MR. SKERNOLIS: Your point is that because the treatment efficiency is so good there is no value in using this kind of break out.

MR. FEES: Excuse me, the treatment efficiency is not so good for these various POTWs that that is worth breaking it out.

MR. SKERNOLIS: One of the points raised in here, though, is that users are taking off site transfers and identifying —I forget how you put it in your explanation. Using the data, aggregate Section 5 and treat them all as releases. If you had the same principle operating in Section 6 or destruction treatment outside of POTW, that problem would not occur. In other words, right now, you are only solving the problem of 6.1, but if the problem occurs for all of six, why are we not fixing it for 6.2 also?

MS. DOA: In 6.2, if you know that something is being sent off site and you know that the majority of it is going to be destroyed, you would report it in 8.7. If you were sending it off site and you know that the majority of it was going to be disposed, you report it in 8.1. If you send something to a POTW and you know that the majority of it is going to be released either through volatilization or whatever, or it passes through, you do not report it in the quantity released, you report it in the quantity treated off site.

MR. SKERNOLIS: I think you just supported my point. The argument you make in the first paragraph of page four, some people are taking Section 5 and Section 6 data and totaling that up as a release number rather than Section 8 number. You are going to fix the problem by only dealing with half of Section 6.

MS. DOA: I see. I am sorry.

MR. SKERNOLIS: Why don't you deal with all of the problem and take any destruction treatment and fix it so that anybody who wants to roll up Section 6 data has to use the real numbers, which if it is going for 70 percent treatment in the POTW or 69 treatments in an incinerator, that is what you have to use if you are going to use EPA's numbers because that is the accurate way.

MS. DOA: Right because —you are correct. For Section 6, you are 100 percent correct and certainly when you look at it —

MR. SKERNOLIS: You understand my point.

MS. DOA: But Section 8 is different. We understand that, right? Okay.

MR. KOFFMAN: We have Bob and then Michael.

MR. STEIDEL: What are the issues —speaking to these two options that are in issue three, I think there is a third option which is using actual data, and there is a way that we can probably use —I think the system right now can allow us to use all of the different types of data that has already been published and available guidance is already

there. One thing, though, that I talked about last time that I would like to propose this time is making a change in 6.1 that I believe is applicable in 6.2 also, but I can show it in 6.1 as an example. I think we can eliminate 8.7. If you will bear with me, I will put it up here and show you how this works.

MS. DOA: Sure.

MR. STEIDEL: Feel free to throw tomatoes whenever you want to. I think this was presented last time in paper form. I have gone ahead and changed it. Someone made the recommendation to put the number of POTWs that you may wind up having, and so that is here. This is the way the form currently looks. Again, you can think of it as 4.6.2 also. This is the way the form currently looked at the total transfer, and then there is an estimate that you came up with as transfer. One thing that I will tell you about this is that even industries that I think know everything in the world make mistakes. There are a lot of people who have misunderstood the guidance, and this number is being reported wrong. That is one thing that needs to be done, to do more education on the reporting itself.

What has been added here is a next column which is the total transfer treated in pounds per year and then how that number was arrived at. Then finally, to the net release, now the net released is the delta between the total and the amount transferred, what I would like to see done, and we talked about this after this additional summary page came out and after your comments came up. This value here, this total net release which is discharged to the environment should be aggregated and put into 8.1. I think you can eliminate 8.7 altogether because the data is in Section 6 which shows the amount of the TRI chemical that is treated, so why take it over to 8.7 unless you want to do it for a summary purpose. Instead of calling that amount transferred, I would call that the amount treated in Section 8, but I think that you could even eliminate that.

MS. DOA: Yes.

MR. STEIDEL: There is more data here for the people to use, and there is actually less reporting on the form. There is this one additional step that the recorder has to go through which is to determine what the treatment efficiency is. Again, there is the 50/50 proposal, there is a proposal to come up with a look up table, or it was proposed that you use actual modeling data, whether it is appropriate to use actual or treatability data. I think they are all valid methods to use to calculate this, and it is already allowed for in the guidance. It is already allowed for in the TRI methodology. Again, I think this can be transferred to operations under 6.2 also. Again, it will tell you if you transfer something to an incinerator, and you transfer, for instance, ten pounds, that you have a 5/9 burn, you are going to have treated 9.999 pounds, and you are only going to have .1 pound to go over to Section 8.1. So, it will not accurately reflect what truly is being released to the environment.

MS. DOA: That seems reasonable.

MR. STEIDEL: Again, there are different methods that you can use to calculate this treatability. Depending on how much flexibility everyone is willing to build into the instructions, you can try to be very, very specific in reporting this, or you can basically wind up overestimating. I will caution you, your 50/50 proposal needs a lot of work from a purely waste treatment concept. Trying to have a default of 50/50, that is pretty —

MR. SKERNOLIS: What is the 50/50 rule?

MR. HART: Where the efficiency, if it is greater than 50 percent, then that

would be reported as 100 percent treated whereas less than 50 percent would be released or considered not treated.

MS. DOA: It is the oversimplified option versus taking whatever the percentage is and computing it out, which is analogous, directly analogous to this.

MR. SKERNOLIS: You folks obviously never worked with my group.

MS. DOA: You are giving it the good one and the bad one.

MR. COMAI: Will that information be available, and from your pretreatment program you will know, okay, we are accepting this amount of organics?

MR. STEIDEL: The information is already available —should be already available under an approved pre-treatment program. They have produced a report that has simply used estimates that passed through and did some basic rounding. They were criticized by some of the industries that were involved, and I assume that if EPA put that into a policy of 50/50, you would equally come into the same criticism.

MR. KOFFMAN: We have kind of a queue that is developing here, and I want to just find out, are you guys responding to this or is there something else that you want?

MR. BROMLEY: Something else.

MR. KOFFMAN: Something else. Michael?

MR. BROMLEY: It is responding to this.

MR. ECK: I am just riffing on the whole idea.

MR. KOFFMAN: Joan, I think yours is responding.

MS. FASSINGER: I had a question.

MR. KOFFMAN: Okay, a question about it. Let's go with Joan, and then we will go with Corey and Michael.

MS. FASSINGER: On your treatment efficiencies, is this a data element that would be able to be acquired on a one-time basis and then built into software for future reporting or is this something that facilities would have to acquire every year?

MR. STEIDEL: Again, that would be going back to the guidance for the reportable year. I think that there is enough big modeling that the number —once a big model has been established with some very minimal data entry, you can probably reconfirm that treatment efficiency over a year. There is a look-up table. You can simply compare yourself to that look-up table. A lot of it is going to depend on how you paper this in the file when you generate your Form R. Some facilities, like mine, determine this every year. I think there are a lot of different ways that you can collect the data as far as the frequency or confirming the treatability or the treatment percentage or the destruction efficiency or the treatment efficiency, however you want to say it, I think that would go back to EPA's guidance. Again, I think there is enough room in the guidance right now that allows for modeling and professional judgment to allow you to make the decision on how you want to paper that.

MR. KOFFMAN: Any other questions before we go on to Corey? Thank you, Bob. Corey.

MR. BROMLEY: This is more of a generalized question, more of an intellectual exercise. I find this a little inconsistent with the TRI purpose or burden in that you are making the reporting facility delve into an off site facility's operations. Really, when we send material off, that generally throughout TRI, you are to use information available to you but not to generate or go get new data. I see this as stepping a little further than is the general rule for TRI reporting. I just am questioning, you are starting to get into the business of somebody else's facility where you are putting that burden on the

reporting facility. If you have the information available to you, then yes, you should report it. If you do not, you should not have the obligation to go out there and seek it necessarily either.

MS. DOA: Can I ask a question?

MR. BROMLEY: Maybe the default values answer that; maybe some of these other things answer those questions.

MR. KOFFMAN: I think Bob had a response.

MR. STEIDEL: Let me respond to that because we kick that around a lot. That is a valid concern. However, I believe that if you do not want to get involved, then you need to report that total —the total transfer off site as a release under 6.1 or 8.1. If you do not want to delve into that, you need to take that as a total release. I think that incentive alone should make you, if you want to lower your reporting numbers, to at least make the effort to do that. I do not think that anybody is telling you that you have to. If you do not want to do the work, just report it. Right now, it is all reported as not released.

PARTICIPANTS: Right.

MR. STEIDEL: I think it should be the other way around. It should go all to 8.1, and that is a total release. Otherwise, we are giving a false impression either way. The other way is to give a more conservative false impression.

MS. DOA: Right. Oh, sorry.

MR. KOFFMAN: We have some people in the queue. If you want to respond, we will let you.

MS. DOA: No, I just had a clarifying question.

MR. KOFFMAN: It is Michael's turn.

MR. ECK: What I have to say sort of goes along with what Ed started and what Corey just said. I think this is a bad idea for pretty much the same reasons that Corey said. I do not want to get into reporting on another facility. I do not want my facilities to have to answer for another facility. I do not think that there is one treatment efficiency which will apply to the wide range of waste water treatment plants which are typically the oldest, the most capital intensive, the most likely to be an art not a science, the poorest funded, and in many cases the poorest operated in my neck of the woods, and I speak not to Virginia necessarily. In many cases, subject to lax state enforcement of laws. I believe that any information provided on this form would be beyond estimate, beyond the very lax standards for data that already exist in the TRI. They would be tooth fairy made up. I do not see why POTWs should have a separate status from other waste management industries. Either they should report as other waste management industries do, or the information which is currently reported on the Form R should remain pretty much as it is. You transferred the chemical. The transfer does not necessarily say one way or another treatment efficiency or release. It merely indicates that we transferred it to them, and it is their problem, not ours. So, I cannot see any justification for this idea at all. I see lots of problems with it.

MR. KOFFMAN: Next we have —Corey, did you have something that you wanted to say because you were up?

MR. BROMLEY: No. No, I am finished.

MR. KOFFMAN: Okay, Joan.

MS. FASSINGER: I think Maria was up.

MS. DOA: I had mostly two questions. One was that I think this was Corey's. Given if we would put in a list of the chemicals, you know, working with our water

program and using modeling, whatever, and the efficiencies, would that be problematic, number one. The second question is, given what I have heard from Robert and from Michael, it sounds like 8.7 is a —I understand the 6.1 issue, but 8.7 is just the wrong place to be putting these transfers to POTWs acting as if they are all treated rather than the quantity released. I guess that is my second. The first question is for Corey, and my second question is a clarifying one for Michael.

MR. ECK: Repeat your first question, please. I was focusing in on your second one.

MS. DOA: The first question, you were talking about trying to find out what the facilities that you transfer the materials to, and if we provided a look up table, you know, chemical X, 80 percent released, 20 percent treated, and you used that as a multiplier to figure out how to report in Section 8.7, is that problematic?

MR. ECK: I would defer to others because we do not use POTWs, so it is more of an intellectual exercise. I am often skeptical of EPA's tables. From what I have seen so far in the mining industry, the tables do not match reality. That is my concern on that side, but again, I defer to other people on that. I still think it should go off to 8.7, really. I think 8.7, it is going off for treatment to a POTW. You have contracted with them. It is up to them at that point. You are not letting it out into the river and just letting it go, so it is not an 8.1, it is an 8.7.

MR. BROMLEY: In light of Maria's question to me, I guess number one, Corey, in some cases you are letting it out into the river and letting it go if there is a big flood and the storm water infiltrates and you cannot handle the load, and so out it goes. Number two, certainly the actual category is 8.7. If it reads quantity treated off site, then yes, including POTWs in that, quantities transferred to POTW, it is somewhat optimistic. There is no separate category for quantity transferred, and perhaps 8.7 should be renamed, as others are, quantity transferred for treatment off site, in which case it is certainly correct, and it does not imply 100 percent treatment. That is a different change, of course.

MR. KOFFMAN: Next, Krisztina, you had your name up, and then you put it down. Do you have a comment?

DR. BORDACS: I just wanted to say what Maria brought up. If EPA provided a database, and it does not have to be inaccurate by EPA. The POTWs could provide the operating data on destruction efficiencies, and EPA can fight it. They can figure it out and put it into the database so it is not a choice. Then it would be doable.

MR. KOFFMAN: We had Paul next.

MR. ORUM: I will defer, but come back to me.

MS. FERGUSON: You skipped Joan.

MR. KOFFMAN: I am sorry, it is Joan next, I apologize, and then Paul.

MS. FASSINGER: I pretty much parallel Michael's sediments —sentiments.  
[Laughter.]

I do not see the POTWs as being any different than any other —than another treatment facility. You send it there for treatment, and we do not look at other treatment facilities as far as the efficiencies or exactly what they are doing. We send it there for a purpose, and to the best of our knowledge, they are doing that. I think by having also the treatment efficiencies could be rolled up, again possibly through the data roll out, perhaps by ZIP Codes or by area or by identifying, linking again the facility data with a POTW and having the POTW provide that information to EPA. We can get that information without



having to put the burden on the facilities. This would be quite a significant burden for facilities to come up with this number, especially if they have to do it every year.

Also, it has been brought up that we could run into some legal ramifications if—you know, we are under permit, and we are sending a certain amount off site, and then to the POTW, and then somehow that calculation gets messed up because we are provided incorrect treatment efficiencies. That could lead into some legal ramifications as far as compliance issues. There are a lot of issues with regard to this, and it seems again that to communicate the information to the community, that should be a role of the regulatory agency or the data manager not the facility to determine that. A lot of that information on what is actually being released is coming through the automatic DMRs that are being reported now in electronic format. Again, that information should now be available to the community where it was not before.

MR. KOFFMAN: We have Paul, Ken, Bob, Edmund, David. So, Paul.

MR. ORUM: A general sentiment of public interest groups, I think, and data users is that the POTWs themselves should be reporting. They have chemicals that are not coming into the POTW from TRI facilities but from other sources. You also may have chemicals that are used or generated right there at the POTW, and of course, that affects workers there, affects the environment. I think clearly, though, there is also an interest in dealing with this pass through issue, how much and the efficiency, but that is the way that groups that I have been in discussion with have preferred to deal with it, is just add the POTWs like all of the other waste industries.

MR. KOFFMAN: Bob.

MR. STEIDEL: One clarifying point on POTWs. POTWs do not have a contract with their users. They do not have—they are not somebody that you pay to treat your TRI chemicals. In many cases, chemicals that are on the TRI list are not part of a NPDES permit or an NTDS permit. So, we are a little bit different than if you send your off site waste to Chemical Waste Management or to the PRC Lansing(?) or somebody like that. It is different. So, you cannot equate the fiduciary right of transfer to a POTW. There is going to be questions about whether or not that is—the data, the accuracy of the data, and the completeness of the data is something that will have to be worked out between the TRI reporter that wants to report accurately and the POTW. Again, I think there are enough options here that if a TRI reporter does not want to get into a liability concern or a TRI reporter does not want to accept the data, they simply default back to reporting basically zero treatment and report as release. Right now, it is reported as zero release and 100 percent treatment. I think it is better to err, again, on the conservative side than it is to err on the non-conservative side.

MR. KOFFMAN: Thank you. Next I have Joan.

MS. FASSINGER: Actually, I just want to respond to that. We do pay fees. We pay sewer, water and sewer usage fees. We have to predetermine how much is going to the POTW and do a loading estimate, and then depending upon what that loading is, we pay fees. So, we are paying fees. We are under agreement through our pretreatment requirements under Clean Water Act to work with our POTWs and work out more or less a contract in the form of a pre-release permit. So, again, this is not a lot different than sending a waste to another offsite treatment facility. Typically, if a city cannot deal with the wastes, they are sent to a commercial treatment facility.

MR. KOFFMAN: Edmund.

MR. SKERNOLIS: I think there is another way to look at this from the

standpoint of the —what information do we have, who has it, and what is the most accurate way to report it before you get to the issue of who has to pay for filling out the form a certain way. The reality is that the generator's know what the information is; they are the ones who fill out Section 6. The way the system is set up now with the lag times, neither POTW nor hazardous waste facilities are brought into the system nor all of the other panoply of waste management —waste treatment facilities which are not in TRI have any information about the TRI chemicals per se. It is only by accident. There is no mandatory reporting of TRI chemicals for waste treatment facilities, so they do not know it.

So, in a sense, the generator knows what the information is. He also knows where he is sending it, and he knows why he is sending it there. He knows that if it is going to a POTW, he probably has a pretreatment from it or he probably knows what the expectation of performance is of that POTW. If he sends it to an incinerator, my company, he knows exactly what RCRA requires to happen to the kinds of materials he is sending to us. In other words, that is where the information is.

I would approach this from the standpoint of who knows what is going on and what is the most accurate way to report it. What I hear the regulatory agency say is the most accurate way to report it is to make good estimates and good distinctions between 8.1 and 8.7. Who is in the best position to do that; the generator. If you want to argue that the waste management facility should pick that up; fine. I have told Maria what the solution to that is. Supplier notification with your waste streams. I want a profile of your TRI constituents and the waste streams. I will compile the data for you. That will cost you a thousand times more than filling out 6.1 and 6.2, in my view but that seems to me the only alternative. Whoever has the data has to disaggregate it accurately, and the generators are the ones who have it right now. Until that changes, I do not know what the point is of talking about what the waste management facility, POTW or anybody else can do. We do not have the information.

MR. KOFFMAN: David, Ken was up.

MR. GEISER: I have to say that —I have to color it by saying that I come from Boston who has a POTW which has been, until recently, a disaster and within the last week may have tried to recoup itself. So, it makes me very nervous that always there has been this what I consider POTW loophole in the TRI because so much of the waste stream in the Boston region has flowed into —of TRI wastes have flowed into the POTW. For me, first of all, I kind of agree with you, Michael, that there is a big difference between a lot of the waste, private waste treatment operations and these POTWs. They are poorly regulated, poorly managed. Again, Bob, except for yours maybe.

[Laughter.]

MR. STEIDEL: Oh, you are not going to get away with that.

MR. GEISER: I just feel like it has been very difficult to claim that it is the same as sending it to an off site treatment facility. Partly, if they are off site treatment facilities, if that is what they are, they have much less management of what is coming in than does a normal waste treatment operation. My argument is that they manage much more poorly what goes out. The fact that they are not a TRI reporter makes them all the more difficult to do. So, I like your idea of maybe saying that everything you send to a POTW should be reported as a direct release. I would prefer to see POTWs brought into the fold and treated as if they were a legitimate institution that has TRI reporting responsibilities. To me, that is the best system for it. The one that I am most comfortable

with is considering it as simply another waste treatment operation that is similar to a chemical treatment recycler.

MR. KOFFMAN: Next we have David.

MR. FEES: I just wanted to address one comment that it would be a burden on the generating facilities if a table of efficiencies for any given chemical was generated and that was actually in the automated Form R, knowing the chemical and knowing the amount, it could actually automatically generate the two numbers. If you are going to have this one table for each chemical, one efficiency value for all POTWs, the AFR could actually generate that automatically. So, I do not see that being a burden. Now, the question of whether that one size fits all, that is something, another issue that it might have some merit to talk around.

MR. KOFFMAN: Corey.

MR. BROMLEY: I have one question and two points. The question is, first, is the table that you guys are talking about consistent with Bob's proposal that he put up on the screen?

MS. DOA: Yes.

MR. HART: Yes.

MR. BROMLEY: Okay. I guess if that is on there, my point would be, and I think that I agree with what I thought I heard Bob say, that I do not think it should be in Section 8 at that point, since you already have the information in Section 6. I think you are being redundant at that point. If you do put it in Section 8, maybe we should have a different line that says, "To POTW," and then it identifies it, even though I think that that is still redundant. You already have that there.

The last point that I have is I do not think that the POTWs should be added to TRI. I disagree with that position. I think that they are not the same type of facility. That is a last point.

MR. KOFFMAN: Maria, did you have something at this point? Sam.

MR. CHAMBERLAIN: A couple of points. One is, we do have a contract with our POTW. We do pay fees. There was a concept talked about in terms of pass through or interference. Part of our contract with the POTW requires them to report to the EPA as part of their NPDES permit any pass through or interference that occurs in their operations. So, they are monitored in their operations specifically for that particular issue. I do not consider our sending our waste to POTW as a release.

MR. KOFFMAN: Mike.

MR. SPRINKER: Before I moved to Ohio, I used to live in the northwest in a paper making area. I know that has always been a concern of the paper industries, are there wastes that are treated sometimes partially on site, sometimes through the POTW, and under the POTW, really wastes are not. You could end up there with —I am not sure what the efficiencies always were of treatment out of those plants —I am sorry, out of the POTWs. You would assume in general that they might have been fairly pretty good for things like ammonia, chlorinating compounds and so on. On the other hand, I think it is important for people to know just how efficient that treatment is both from the standpoint of the public knowing is the POTW able to do an adequate job in treatment, do you have companies who are perhaps —there was one in the northwest who was releasing alpha emitters sort of against their permit with the POTW and other wastes into the waste stream. I am not sure how that necessarily was reported to EPA under TRI. What they were doing was fairly illegal.

If a company is perhaps choosing a POTW to use because it is a lot cheaper than sending it off for perhaps what is proper treatment, then I believe there certainly is a right to know of folks in the area, both the public and the POTW. If the POTW really is handling a lot of this waste, and let's face it, a lot of POTWs really do have funding problems especially these days, I think it is important for the public to know that if the POTW is coming in and saying, hey, we really do need to upgrade our system, we really do need to upgrade our facility, that there actually is some support as to why that is actually needed. I am not sure if that is quite using that for political purposes or not, but the better understanding the public has of the use of a POTW and of the problems that POTW faces, the more likely that POTW perhaps is going to be able to actually fulfill those needs by having the adequate resources to do that.

MR. KOFFMAN: I think next we had Ken, then Joan, and then Bob and Paul.

MR. GEISER: Yes, the point, Steve, I do understand why you as a generator would like to think that sending it to a POTW was a good, was a solid and responsible thing to do and did not result in a direct release. I like that as an idea, too, it is just that I think that we are too often kidding ourselves by saying that it is a well managed off site treatment operation in the same way that Ed's operations, I think, would like to be or more likely to be.

So, as a way of driving, I think maybe where Mike is, as a way of driving for a better organization of how we think about POTWs, I would like to see them brought into the system. What I do not think that we should do, though, is in following a model like this is create some kind of factors by which we allocate parts of that waste stream to treatment when I believe that POTWs do not manage at that level of efficiency and that the TRI would be assuming things about the treatment capacities that would mislead the generator into believing things about how much is actually being treated and also then mislead us all in the way that it was reported.

I also do not -- even though I like -- one thing that I do like about Bob's piece here is that it creates a kind of worksheet for Section 6 that you would lift numbers and put them into Section 8. I do not like the idea of excluding them from 8 because there has been, in my experience, a preciousness to the additive quality of that page that allows you to just go right down through it and see how things add up and both from the point of view of those who fill it out and from the point of view of those who observe it. It has been a very positive piece. It is a simple thing, but I would hate to see pieces pulled out of that. Rather, I would see this as some kind of a worksheet for them.

MR. KOFFMAN: Joan.

MS. FASSINGER: Just to maybe ask Ken, getting back to Ken's previous point and David's. You mention the quality of treatment or management at POTWs. I guess a question is, if a POTW is poorly managed, how the facilities would get the information then if they do not have the management. Do they know what the treatment efficiencies are, and getting to David's point, if you put this number, a generic table, in the AFR, that helps the facility sending, but it appears to me from the community's perspective and what Mike talked about, you would be actually penalizing the good facilities because you would be underestimating their treatment efficiency and benefitting the poorer facilities by overestimating their treatment efficiencies.

Again, when the NPDES data is available to the public, there are still going to be a lot of inconsistencies. So, I am not sure. Again, I think everyone wants to know what the loading is to the environment and what is going on in the streams and rivers, but I do

not necessarily think that this is the way to do it. TRI is only a fraction of what is actually going out, and to the community, and I would believe that to a state, it would be more important to know what actually is going out, that is available through very frequently monitoring data, and not a once a year estimate based on a very generic model.

MR. KOFFMAN: Paul.

MR. ORUM: The Pollution Prevention Act in the items included in Report Section 6.6.0.7.B number 8 actually talks about specifically the amount of chemical from the facility which is just treated at the facility or elsewhere. Clearly, this information needs to either be reported there or as a release. I would concur with others who have proposed that it should, by default, if you do not know what is happening with any reliability out there, and often we do not, be considered as a release. One way or another, it does need to be in Section 8.

MR. KOFFMAN: Bob.

MR. STEIDEL: A couple quick points. Again, I do not know everybody's sanitary district in the United States, but I know how most of them work. The fees most everyone pays is for flow via desuspended solids and in some cases nutrients. It does not include TRI constituents. Except Chicago, I am sorry.

PARTICIPANT: Thank you.

[Laughter.]

MR. STEIDEL: I stand corrected. Also, EPA's rules prohibit a contract between an industrial discharger and the POTW. To have a pretreatment permit, you are prohibited from having a contract; you must only have a permit. I do not know how all of your POTWs have done that, but that is in their rules.

One point that I have not made yet that I had meant to make previously, the pH requirement in neutralization is 6.0 units. The pretreatment requirements require POTWs to neutralize to—I am sorry, industries to neutralize to 5.0 units prior to discharge, so that is an inconsistency. I think that it may be something that should be addressed. Finally, I think that I have heard that POTWs either cannot do anything or they can do everything.

[Laughter.]

Both spectrums. In the back of the handout is a discussion, a page and a half that speaks specifically to POTWs as reporting. They were considered during the last expansion of TRI, and I think it was considered very well by EPA and by the community, and the decision was made not to include POTWs. There were reasons for and against. I still think at this time it is against. A POTW is a pollution destruction facility, it is not a pollution generation facility. The chemicals that are used in the POTW are used for process, and they are consumed in the process. They are not released to the environment. They are made to be used and then used during the treatment process.

MR. KOFFMAN: Susan.

MS. FERGUSON: I was going to mention a little bit more than what Paul said. You have two different parts of the law that you are working with. One section on source reduction, the other section on the chemical release reporting. Specifically, the source reduction/recycling areas do divide out into quantity of chemical entering any waste stream prior to recycling treatment or disposal during the calendar year. It goes on to have a comment, "Where the actual measurements are not available, estimates should be made using best engineering judgment." So, you do have some guidance from the statute there. Then what you further report, the amount of the chemical from the facility

which is recycled, production ratios, amount of any toxic chemical released into the environment from a catastrophic event, and the amount of chemical from the facility which is treated at the facility or elsewhere. Backing up into —but it also says, do this report with the other report, and in the other report, you have the three provisions about estimating the ranges of the chemical present at the facility during any time during the year, and then separately for each waste stream, the waste treatment for disposal methods employed and an estimate of the treatment efficiency typically achieved by such methods. So, I am not sure that they are looking for precision or very precise items. You do have the references to engineering judgment and typically achieved by methods in terms of information available from the statute.

MR. STEIDEL: I think that was translated in TRI guidance, so I think it is already in.

MS. FERGUSON: I know, but as we reconsider the guidance, we still need to reconsider the fundamental law that is the basis for that guidance.

MR. KOFFMAN: Edmund.

MR. SKERNOLIS: I think there are three options or three scenarios on this issue. One is not to change anything and preserve the status quo which means your error range, in kind of response to Joan's concern about and your point about precision. Your error range right now is 0 percent to 100 percent because of the 8.1 to 8.7. The second option is to bring POTWs into the reporting system. I would be willing to bet the ranch that if POTWs are brought into the reporting system, generators will be providing TRI profiles to the POTWs as part of that deal. The third option is to take the information that you have and do a good approximation based on best engineering judgement of what the performance of the treatment facilities is and get out a good approximation of the number for the public as to what is being released versus what is being destroyed through the treatment process.

I think this issue of precision goes beyond just the POTW issue. I think we need to talk about it a lot over the next five meetings. I do not understand the value of a 0 to 100 percent range being preferable to a 65 to 75 range or something like that, which is what you might find using Bob's ideas.

MR. KOFFMAN: Wilma.

MS. SUBRA: I just want to throw out a word of caution when you are looking at destruction efficiency and how you come up with it for a POTW. I am from Louisiana, and we have 60-plus inches of rainfall a year. In addition to our POTWs not functioning properly when we are dry and discharging a lot of things through them untreated, every time it rains, they have major bypasses. We are still in January, and since January 1st, we have had one to two major rainfall events every single week this month. I can tell you, anything that was discharged went untreated into the bayous and rivers. So, you can do a destruction efficiency, but you also have to account for how much is bypassing and discharged just totally untreated.

MR. SKERNOLIS: Right now, you do not get any of that information.

MR. STEIDEL: Would you do me a favor? Never settle for that. Never allow your POTWs to do that. Citizens sometimes settle, and POTWs should be held accountable to a higher level. Do not sit, do not let an excuse be just because it rains that the plant did not work.

MS. SUBRA: Right, and we work on that a good bit, and it always comes down to money, and they say —

MR. STEIDEL: I am just saying, do not settle.

MR. KOFFMAN: Corey.

MR. BROMLEY: I guess I would support what Ed is saying in a couple of ways. One, I think that just like every other thing we fill out on TRI, it is under the information that is available. The accuracy is based upon what information you have available. I think it is appropriate if we can come up with tables, that is great, and go ahead and do that. I am just cautioning, I guess, as a group that we cannot be looking at adding POTWs or doing other things. The information that is already out there with NPDES and other information, and I just think that we should not look at TRI as the catch-all and savior of everything. The information for the public interest groups is available to them for information that is of concern. I think that it is a burden that already —that does not need to be on somebody who does not have a lot of resources already and eventually, if they get into trouble or whatever, it is going to be something that information is available to you. So, I just support what Ed had and what Joan had said earlier.

MR. KOFFMAN: Joan, do you want to add to that?

MS. FASSINGER: I think that I would like to add a fourth option to Ed's to reflect what Corey just said. That is to leave the TRI the way that it is and have EPA start combining other data with TRI such as NPDES to provide that additional information, which is again much more accurate than any kind of estimates that we could make.

MR. KOFFMAN: Paul.

MR. ORUM: Again on Corey's point. I just sense a conflict between your earlier statement that firms should not be —TRI reporters should not be required to delve into the operations of facilities elsewhere and not adding POTWs to TRI. It seems like one has to make a choice of going one way or the other.

MR. BROMLEY: Just not responsible for their facility. If I have information available to me on efficiencies, et cetera, I am already required to report that, but I am not going to jump over to them and ask them everything. I do not see the inconsistency. We are reporting for our facility and our facility alone.

MR. ORUM: But you are talking about requiring your facility or the generating facility to have knowledge about what goes on at the opposite facility. That is the bottom line, some other plant.

MR. BROMLEY: Not requiring them to, no.

MR. ORUM: Okay, so you would not require it.

MR. KOFFMAN: Okay, we do have —go ahead, Ken.

MR. GEISER: Just a simple thing. I wonder to what degree it might make sense to think about just having under Section 8, to wrap it directly up and just sort of have a separate little section which is sent off to a POTW. Just something to think about. To me, as an interim step, that might be a way of dealing with the complete lack of knowledge of what is going on.

MR. KOFFMAN: We have heard a number of options presented, and perhaps what would be useful at this point, I understand from Sarah, would be to go over those options and to try to get a sense for which one you all could support and to get a list sort of of the reasons why or why not for the others. Does that sound like where you all would be interested in proceeding now? We have had sort of a general discussion. Does that sound okay?

In the absence of anyone objecting, we will do that. First, let's get a list of the options. The question is how toxic chemicals treated at POTWs are reported in Section 8.

First option, and help me with this because I am not as technically adept at this as you all are. The first option, as I understand it, is report released not treated. Is that right?

PARTICIPANTS: Affirmative response.

MR. KOFFMAN: The second option, it is the 50 percent sort of cut that is being made. If it is greater than 50 percent, report all as treated; if less than, report none is treated. Is that right?

Then we have Bob's proposal, and then Mike who left —

MS. FERGUSON: What was Bob's proposal?

MR. KOFFMAN: I will let Bob say what his proposal is.

MR. STEIDEL: Treatment efficiencies subtracting out. Net to the environment.

MR. KOFFMAN: So we call that treatment efficiencies. Is that a way to —

MR. STEIDEL: Just call it net.

MR. KOFFMAN: Okay, we will just call it net. Then we have a fourth proposal that Mike made, and that was to retitle 8.7, transferred for treatment and reported here. He kind of mentioned that to you, David. Can you elaborate on that?

DR. BORDACS: It is the same as Ken said.

MR. KOFFMAN: That is what who said?

DR. BORDACS: Ken said.

MR. KOFFMAN: It is Ken now since Mike left.

MR. GEISER: I will share it.

MR. KOFFMAN: Okay.

MS. FERGUSON: With 100 percent reported in that category, right?

MR. KOFFMAN: Is that correct, 100 percent reported in that category?

MR. FEES: Would that be a new line or —

MR. GEISER: Just a retitling of that line.

DR. BORDACS: Just a retitling.

MR. FEES: So, all materials going off site for treatment whether POTW or not would be in this category now called transfer off site for treatment?

MR. GEISER: Is that not the same that we had there?

MS. DOA: It is the same thing.

MR. FEES: So, just what it says here. Exactly the same thing. It says, "Quantity Treated Off Site" now.

MR. GEISER: No.

MS. FASSINGER: I think there was another option to break out the POTW transfer.

MR. FEES: Right, that was another option, but if we do not understand number four option, let me explain. Right now, all of the off site —and this is not just treatment but all of the off site treatment items are quantities used for energy recovery off site, quantities recycled off site and quantities treated off site. You do not know exactly if in fact it is all being treated off site. So, the more accurate verbiage is to say quantities transferred for treatment off site. You could say the same thing with recycling and energy recovery if you wanted to follow it down.

MR. KOFFMAN: That is item four.

MR. FEES: That is what Michael --

MR. KOFFMAN: Michael and Ken are supporting. Wilma's question, is that 100 percent reported. Is that your question?



MR. SKERNOLIS: So, none of that ever appears in a release. It is a black hole.

[Simultaneous discussion off microphone.]

MS. DOA: Am I allowed to clarify something?

MR. KOFFMAN: Please do.

MS. DOA: In the data release, it is broken out into —last year, it was broken out into on-site releases in one table, and there are a couple iterations of that, and then a separate table are transfers off site, POTWs and then transfers off site, to other off site locations.

MR. SKERNOLIS: I am just trying to understand. What you propose to report it as 8.7 gets picked up as a release in the PDR?

MS. DOA: No.

MR. SKERNOLIS: That is what I thought. All I was trying to say about it was that they are never reported as releases. They report it as transfers.

MS. DOA: Exactly.

PARTICIPANTS: [Comments off microphone.]

PARTICIPANT: Right. Metals go different places.

MR. FEES: Which options do people not understand at this point?

MR. KOFFMAN: That is what I want to find out.

MR. FEES: Do people understand these options, all four of them?

MR. KOFFMAN: Four is just continued over here. I will fix that one. This should say this, and that is just an explanation to Wilma, to answer her question. Let's go through them one at a time, make sure we understand what each one of them represents, and then decide whether we have consensus on one.

MR. ORUM: There is also the option that POTWs should report.

MR. KOFFMAN: Another option, number six we could put here, which would be phrased how?

MR. ORUM: POTWs report as TRI.

MS. FASSINGER: Could I ask a clarifying question?

MR. KOFFMAN: Sure.

MS. FASSINGER: If POTWs report, then how would you have the facilities report their transfers to POTWs? Would that just be included in the transfers as it is now?

MR. ORUM: In that case, just transfers.

MS. FASSINGER: Can we add that?

MR. KOFFMAN: Sure. What do we want to add here?

MS. FASSINGER: Facilities report transfers to POTWs as is.

MR. KOFFMAN: Facilities report transfers as is.

MR. SKERNOLIS: It is the status quo except POTWs reporting. The generator is status quo.

MR. STEIDEL: A clarifying question, I guess, then. Do the generators give the data to the POTWs and the POTWs then report?

MR. ORUM: It is covered in more reporting than just what is reported by the TRI.

PARTICIPANT: They are going to have to start hiring analytic chemists. You do not want that, believe me.

MR. KOFFMAN: If this represents the various options, why don't we take them one at a time. I will list it on a separate sheet of paper. We will see if we have a

consensus around —we will take each one. I guess we will kind of vote, we will know, and we will get the reasons, list the reasons why or why not. That is a proposal, but this is your committee, so you tell me how you want to proceed.

MR. FEES: You might want to consider multi-voting, too, because people might like to see at least one or two or three of the options be proceeded further or further discussed as opposed to maybe just one vote.

MR. KOFFMAN: That is a good idea, so we will multivote first. We have a lot of people here. Maybe the first step would be just to make sure —is there anyone who does not understand one of these? We have three listed here and three over there. Do we have questions about what any of them represents? Andy.

MR. COMAI: I was out of the room during most of Bob's presentation; I apologize for that.

MR. STEIDEL: We only have an hour to get you up on it.

MR. COMAI: When you were talking about treatment efficiency tables, do you make a distinction between people who do tertiary treatment, secondary treatment, or would that be some kind of grand table that all POTWs would go to so that the City of Ipsolani, Michigan, would do the same as the City of Chicago? Or are you talking about taking each POTW?

MR. STEIDEL: Are you talking about the look up tables? The look up tables are based on well operated secondary treatment facilities.

MR. COMAI: If they do not have secondary treatment or if there is —

MR. STEIDEL: There is nobody who does not have secondary.

MR. COMAI: Sometimes Gary, Indiana.

MR. STEIDEL: As I told her, do not settle.

MR. KOFFMAN: Okay, so any other questions?

MR. ORUM: Yes. The question is procedural on the value of voting. I understand the value of a show of hands with some kind of consensus. I do not understand the value of voting. What we should be producing is reasons why people agree or disagree on particular proposals. That is what then guides EPA. That has been our operating —

MR. KOFFMAN: I think the multivoting was to determine which of these that you wanted to deal with. In other words, some of them there may not be enough interest in to discuss. Is that right, David?

MR. FEES: That is what I am thinking.

MR. KOFFMAN: So, we might be able to pick out three, and then we will list the reasons pro and con for each of those three. Does that sound right? Okay, so the top three vote getters would be the ones that we discuss.

I am going to actually ask people to come up, and they are going to check.

MR. FEES: Could you first of all tell us how many votes we get.

MR. KOFFMAN: Two or three votes would seem right to me.

MS. FERGUSON: For what?

MR. KOFFMAN: To pick the ones that you think you would like to make as a proposal. Those are the ones that we will discuss next and list the pros and cons. Do you want two votes or three?

PARTICIPANTS: Three.

MR. FEES: You can put all of your votes on one or separate. You might also want to put a box next to each one of the people or are you going to put it on a separate piece of paper?

[The participants conducted a multivote on the following issues:

1. Report quantities in 8.1 as “released.”
2. Use 50% rule - if treatment efficiency exceeds 50%, report total quantity as “treated”. If less than 50%, report as “released.”
3. “Net.” Use table of treatment efficiencies (except metals).
4. Change 8.7 to read “transferred off site for treatment.”
5. Split transfers to POTWs from other offsite transfers.
6. POTWs become subject to TRI.]

MR. KOFFMAN: We will go ahead and start with number three, and what we are going to look at is if not, why not. The big vote getters were number three, Bob’s, number four, retitling 8.7, and then it was pretty close between five and six. Six got 12 votes and five got 11.

MR. ORUM: Why don’t we take four of them then.

MR. KOFFMAN: We can do four of them. We can take as many of them as we can do in the time allotted, and that is 20 more minutes. Let’s go ahead and start to talk about these. Since we have four of them and we have 20 minutes, let’s take five minutes on each. That will take us right where we need to go. Let’s start with number three, Bob’s. How would you all like to approach this in terms of the discussion? Where is Sarah?

MS. PRICE: Michelle ?

MR. KOFFMAN: I am sorry; I keep doing that. I am sorry, Michelle, how would you like to phrase the question that leads to the discussion here? What would you like to know, why people are not in favor of it?

MS. PRICE: I think what we are trying to capture is a little bit of—it seems like there are a lot in favor, and if we could capture precisely why that is, and if there are any disagreements with that after those. There is a lot of consensus behind it, it appears, but if we can capture the reasons why we really like that idea and then those who do not.

MR. KOFFMAN: What is good about this one? Why do we like this one. Number three. Bob.

MR. STEIDEL: It provides more accurate information.

MR. KOFFMAN: Okay, why do some people not favor Bob’s? What is a problem with it if there is a problem?

MR. SPRINKER: I am a little concerned if we are taking basically sort of a general number for treatment efficiency which might apply across most of the chemicals. We do have differences from—I would guess that there are differences from facility to facility. I guess that is where my concern on that one really comes in. Are we just sort of putting out a gross estimate for treatment efficiency which could be widely different from facility to facility if we are looking at just one look up table.

MR. KOFFMAN: So, not precise enough by each facility?

MR. SPRINKER: Yes, maybe even per chemical. I am not sure how this look up table is going to be constructed, how much detail there is going to be in it. We want to avoid so much detail that you wind up with a book this thick. On the other hand, you could be off by maybe—well, 50 percent.

MR. KOFFMAN: Any other pros or cons on this one. Yes, sir, Edmund.

MR. SKERNOLIS: Maybe it is an elaboration. There is, in my view, better allocation information and certainly there is better information to the public about treatment efficiencies.

MR. COMAI: I think one of the things, just to reinforce what Mike was saying, there might be combined sewer overflows where at some points treatment is totally bypassed with that stuff that ends up going directly into the water bodies that does not get treated. When you run that through a table anyway, there is escape. VOCs might escape from a manhole before it even gets to the facility during some -- whether it is an accidental spill, something goes down the manhole accidentally or whether it is a common discharge, the stuff that breeds before it moves across the City of Chicago.

MR. KOFFMAN: So again, it is not precise enough, is that the point related to Mike's?

MR. COMAI: Right. I guess I would want these questions answered before I got on the Bob bandwagon.

MR. KOFFMAN: Okay, so there are some questions that you need answered.

MR. COMAI: Does the POTW have a pretreatment program, and do they have pollution prevention inspectors.

MR. KOFFMAN: These are technical issues that you want resolved.

MR. COMAI: I guess I would trust this if it were Muncie, Indiana, but I would not trust it if it were Gary, Indiana. That is just basically that the POTWs are different.

MR. KOFFMAN: Let's take David, Wilma, Susan, Paul.

MR. FEES: All I can say is that it would be better than it is now. Right now, all treatment is pretty inaccurate. That is all I can say.

MS. SUBRA: It does not take into effect the quantity and the number of times that the facility totally bypasses you.

MR. KOFFMAN: Totally what?

MS. SUBRA: Bypasses.

MR. STEIDEL: I really must be in fairy land.

MS. FERGUSON: The pros are it is about as good of information as you can get with the information collection systems that we currently have and does appear to be consistent with what Congress is laying out in terms of best engineering judgments and using readily available information. It meets that part of the statute that asks you to give an amount going in terms of environmental media, so you have to get to that value through -- and also gives you an estimate of the treatment efficiencies. I can find those requirements in the statute, too. I have a question. I am assuming that we still keep the value in the generator's report of the toxic chemical prior to treatment that goes into the off site. Off site transfer would be in the other form. So, it appears to meet those requirements as well.

MR. KOFFMAN: Paul.

MR. ORUM: It is incomplete.

MR. KOFFMAN: It sounds like a con to me.

MR. ORUM: It is helpful.

MR. KOFFMAN: I am not a pro.

MR. ORUM: Actually, it is both. I find this to be helpful but incomplete because it does not tell me what I want to know about what is coming out of POTWs.

MR. KOFFMAN: It is helpful but it is not complete enough for you.

MR. ORUM: It is not complete because it does not tell what is coming out of POTWs.

MR. KOFFMAN: That takes us to five minutes. I am sorry that we do not have more time on it. Let's go right on to number two. We can come back to these

because we have some public comment period later, and I do not know what is going to happen at that.

The next one that we were going to look at was number four, which is just retitle 8.7. So, pros, cons on retitling 8.7. Joan?

MS. FASSINGER: That more accurately represents the activities of the reporting facility and another item, another pro is that that information can then be combined with more accurate information that is available.

MR. KOFFMAN: Okay.

DR. BORDACS: No extra work.

MR. KOFFMAN: No extra work. That is always good. Edmund?

MR. SKERNOLIS: The black hole.

MR. KOFFMAN: The black hole. I guess that is a con.

[Laughter.]

MR. STEIDEL: It is incomplete. You do not know what comes out of POTWs.

MR. KOFFMAN: Okay. Anybody else?

MR. SPRINKER: I would say the same thing, basically. It is a more accurate description, but it does not really tell you anything.

MR. ORUM: It is unknown exactly whether there are —it is unknown often whether any treatment does take place. So, in that sense, it is not accurate.

MR. KOFFMAN: Because it is unknown whether there is any treatment that takes place? We have Corey.

MR. BROMLEY: I would counter it and say that it is complete because we are looking at facility only. We are not looking at what is coming out of POTWs. They are not reporting. Unless they are reporting, we do not have to. Incompleteness is incorrect because it is complete for the facility.

MR. SKERNOLIS: It is an inaccurate statement.

MR. KOFFMAN: It is complete in terms of reporting what comes out of the facility. Robert?

MR. GARNER: If EPA already has this lookup table, then the treatment efficiency can be handled in the public data release. That way, the public gets more information, and the reporters do not have to do more work than they do already.

MR. KOFFMAN: Okay. Anybody else. We can move on then to number — we are going to do all four of them, so we are on to number five which is split POTWs from other transfers. Corey?

MR. BROMLEY: First, on con, I think it is just redundant for 6.1 and 6.2. On the pro, I think that it at least says that this is what is happening, it highlights what is happening with the POTW. If people want to look elsewhere where there is information elsewhere, they can go.

MR. KOFFMAN: So, it gives some general information that is useful. Ken.

MR. GEISER: Yes, but it is just straightforward, easy to do. It responds to the 6.1/6.2 distinction that is already in the earlier parts of the reporting, and so it stays true to that. I think it speaks to our ignorance of what really is going on at the POTWs.

MR. KOFFMAN: Thank you. Some over here? David.

MR. FEES: Con that it does not really provide any new information.

MR. KOFFMAN: Bob.

MR. STEIDEL: The same thing as David, the same comment.

MR. SPRINKER: I think that it does reiterate —while it does not necessarily provide any new information, it does provide a good focus for people so they can — people typically look at the Section 8. They are able to say, okay, we have this percentage going to POTWs, this percentage going to other sites. From that point on, they can look at what are the efficiencies, perhaps, if they can find that out. They can try to dig out some more information.

DR. BORDACS: It all depends. That could be a pro or a con.

MR. SPRINKER: Exactly!

[Laughter.]

MR. KOFFMAN: Anything else? Anybody else on this one? Let's move on to the last one, then, number six, which is POTWs subject to TRI. Yes, Corey?

MR. BROMLEY: Two cons. One, we will never reach a consensus on this.

[Laughter.]

MR. KOFFMAN: Okay, anything else?

MR. BROMLEY: Two, it will be extremely expensive to all users of POTWs.

DR. BORDACS: Lots of extra work.

MR. KOFFMAN: Okay.

DR. BORDACS: Lots of extra work for generators.

MR. KOFFMAN: Extra work. Paul?

MR. ORUM: On pro, valuable information on chemicals not from TRI facilities and used right there at the POTW, and also valuable information that is not reported under NPDES. I will just list some of the things. Not all TRI chemicals. It is not multimedia in that it matters what goes out in sludge, in air. It is not one central — there is an inadequate central data repository. It is usually not chemical specific. It is for some metals, but usually, it is not. There is often poor monitoring and enforcement. Those are five reasons.

MR. KOFFMAN: I have four of them, and I am sure they got the rest on tape here. Bob.

MR. STEIDEL: Paul, respectfully, four of those are not accurate representations, I'm sorry. The last four. I will agree with you on the first one, but the last four are not accurate representations. Also, again, this issue has gone through the process of determining whether to add POTWs to TRI and already been discarded by EPA.

MR. KOFFMAN: Sam and then Corey.

MR. CHAMBERLAIN: It is not necessary. Current POTWs are required to meet NPDES permit limits based on water quality standards plus analysis. It is proven that NPDES permit limits are set to meet the criteria that protect the environment.

MR. KOFFMAN: I think, Corey, you had your hand up.

MR. BROMLEY: I guess it is kind of an echo of that. The TRI is not an answer to everything, and yes, some people want to have everybody do them, but it is not necessary. NPDES and others have enough information out there to evaluate.

MR. KOFFMAN: Edmund?

MR. SKERNOLIS: The cost burden would also go to the generators, POTWs and to the regulatory programs because the effluent guidelines and pretreatment programs will grind to a halt for about ten years while we try to find out what is in our effluent.

MR. KOFFMAN: Susan.

MS. FERGUSON: I have a modification on what Bob said and Ed said. With respect to the information being collected, I think my take is that you might have more data being reported that if you can use the same estimations or readily available information, I am not sure that you get any better information in terms of the quality of the data that you would be getting, if it is really painting the picture. Then with respect to cost burdens, I would hear federal mandate without any money from the cities who would be required to do the reporting and wouldn't see the public revenues to be able to provide it. So, the cost here, the cost burden, is back on the people. If you do not have any more accurate data as a result of the system, that is going to be a hard sell.

MR. KOFFMAN: Yes, Joan.

MS. FASSINGER: A con is that, similar to other industries that may be reporting under TRI, by pulling the POTWs into TRI, you create the potential for more inconsistency with the data that is already out there and confusion on the part of the data users.

MR. KOFFMAN: Okay. Edmund.

MR. SKERNOLIS: A further attenuation of the TRI program away from source reduction and focusing on pollution control facilities.

MR. KOFFMAN: Andy.

MR. COMAI: I think, just to use an example, there is 40 percent of the chrome plating tanks in the country do not report under TRI; they are too small. If all of those people are discharging something, some amount, and there is an NPDES pretreatment permit to discharge that, the POTW would be responsible for gathering that information. So, in that particular industry, which is one of the priority chemicals for EPA, there would be a huge amount of data that would be then available that is currently lost and lost under all of the other proposals.

MR. KOFFMAN: Any final comments on number six, pros or cons. Yes, Mike.

MR. SPRINKER: Actually, I think some of the NPDES data, at least certainly from looking at not sewage treatment, not POTWs but other facilities, it is not necessarily that easy to get in some states. Basically, you end up going through nice long file records to see where they are at on that. I think Andy—I am not sure how much that is the case with POTWs, but there are times when, for example when we are trying to work to do things to protect our members and may want an estimate of what is going out of a plant. Certainly if I was working in the public sector, as a public sector union representing people in those plants, it would be very nice to know really what is coming in, what they are dealing with, what may be bypassing treatment.

The other thing, too, is I agree that there is—if POTWs are used by a number of smaller companies and become a major source of disposal or of treatment, if you would, we really do not have a good handle on what those other companies are putting out and whether there are better methods, perhaps, for them to be using. This may be a way to get a handle on that.

MR. KOFFMAN: Thank you. Edmund.

MR. SKERNOLIS: Just a comment and just a general concern. A lot of the things that are being counted as pros are not implicit or explicit in the addition of POTWs. People are saying that this is the benefit of doing it. It is a totally separate issue of bringing in small quantity generators. Just because a POTW does not make those report, nor does it make the information available. It cannot be assumed to be a pro because it has nothing

to do with the addition of a sector per se.

MR. ORUM: It does provide you the information of what is coming out of the POTWs. It adds worker exposure. It gives you that.

MR. SKERNOLIS: No, it does not. That is another assumption that is false. If you do not have the information to begin with, you cannot report it.

MR. ORUM: In the last meeting, we had a discussion in which Bob Steidel commented on the availability of information as to what was coming in. He suggested that POTWs do know what is coming in, if I did not misrepresent —

MR. STEIDEL: I said POTWs like mine, not all POTWs. You have to remember that the POTW universe is very large. I think there is a very small universe that operates like we do because we are an industrial-dominated facility. So, POTWs is a huge universe.

MR. BROMLEY: They do not have TRI chemical information necessarily.

MR. ORUM: It suggests a large hole in the information on where toxics are going.

MR. SKERNOLIS: All I am saying is one should not assume a pro of this is that new information suddenly is created, a whole bunch of other generators are brought into the system. That is not what this thing says.

MR. ORUM: Clearly.

MR. SKERNOLIS: It says that POTWs must report. It does not change anything else in the system.

MR. STEIDEL: It is not really a hole. The top ten TRI constituents in POTWs are phosphoric acid, sulfuric acid, things that are neutralized at the site because they have to be at pH 5 before they can be discharged. Ammonium nitrate, ammonia, methanol, very common TRI constituents that get treated at POTWs. The amount of not large transfers are very, very small.

MR. ORUM: Remember, though, that sulfuric acid is an indicator, often, for a lot of metals that it is carrying. If the EPA does in fact lower the thresholds for the persistent toxics, then you would get better reporting on that. The idea is you —

DR. BORDACS: That might be the POTW you use because of neutralization chemical.

MR. ORUM: That is correct.

MR. KOFFMAN: Final comments. Sam and Susan had their hands up, and then we are going to have to move on. Sam.

MR. CHAMBERLAIN: Pass.

MS. FERGUSON: Pass.

MR. KOFFMAN: Then we move on right now. One announcement that Michelle asked me to make was that tomorrow morning, we are actually not going to begin the discussion until 9:00. Before 9:00, I guess from 8:30 to 9:00, there will again be someone to come in and talk to you about travel. Is that right, Michelle?

MS. PRICE: That is correct. If you are interested in that discussion, be here at 8:30. If you do not need to hear that, be here at 9:00.

PARTICIPANTS: Cool!

PARTICIPANT: The guys who come at 9:00 have to bring doughnuts.

MR. KOFFMAN: The 9:00-ers have to bring doughnuts. Again, we have 15 minutes left at the end of the day here for public comment. Michelle, how do you want to proceed with this?



MS. PRICE: I have four people here, and I wanted to give each one them five minutes each to make their presentation. Five people.

MR. KOFFMAN: Five people, four minutes each.

MS. PRICE: After each person speaks, we will take a minute if there are any questions, and then we will move to the next person.

**Agenda: Public Comment.**

MR. KOFFMAN: Okay, great. We are going to begin with Todd Hennenback. Todd, if you want to go ahead. Right there will be fine, and I will give you a one minute warning.

MR. HETTENBACH: Thank you. It is a pleasure to speak to you today. I am reading a statement, well, mostly reading a statement that Jackie has. It is from the Environmental Working Group, read at the last round of TRI hearings. She is unfortunately doing field research in the beaches of Hawaii right now, so I guess some of us have to do it.

Approximately one billion pounds of listed chemicals were directly discharged to America's surface water between 1991 and 1994 according to the Toxics Release Inventory. The data on these releases have been catalogued, scrutinized and evaluated. However, almost twice that amount, 1.8 billion pounds of TRI chemicals were transferred to publicly owned treatment works with very little study from the research community.

One big reason for this is that the public does not have an accurate and easily-obtainable estimate of how many of these chemicals were released from the plants. The only way to get this estimate is to require POTWs to report to the TRI.

In a 1996 report, the Environmental Working Group attempted to bridge this data gap and give local citizens a better understanding of what toxins were being dumped into rivers and streams in their neighborhoods. The direct discharges to water were easy to quantify because they were listed in the TRI; however, the lack of information regarding POTWs presented a host of problems. The first and most obvious problem was that on many rivers, excluding releases from POTWs could have excluded the largest and most influential point source on that river. Because POTWs are not required to report to TRI and because NPDES does not have a broad dataset of every chemical leaving every POTW, we are left with no way of knowing when this might be the case.

Given this lack of discharge information, we did our best to estimate the releases of chemicals from the plants by using a 25 percent release rate that was published by the EPA in 1995. This gave us the basis for a rough approximation of discharges but gave rise to our second round of problems. This second round of problems that we faced was that the 25 percent release rate was not chemical specific and could not necessarily present an exact representation of discharges from any given plant. We could only make estimations for very large POTWs whose loads were the most likely to resemble the universe for which the EPA estimate was developed. Most importantly, the estimate could not be used to pinpoint the exact quantities of specific chemicals released by these plants. So much for community right to know.

The third barrier that we faced was that even when we could estimate the number of pounds of chemicals released to water, we could not be sure that we knew the water body to which it was being released. Since the POTWs are not required to release this information in the TRI, the public does not have any easy way to determine which

water bodies are being impacted by dischargers. Again, so much for the community's right to know.

We attempted to fill a second gap by surveying a number of the larger POTWs on our list and asking them which water body they discharge to. Although this was only a survey of the larger plant population, we found that for many of America's waters, POTWs are the number one source of toxic chemicals. For example, we determined that Gravelly Run in Virginia received 6.3 million pounds of direct discharges between 1991 and 1994 in contrast to an estimated 20 million pounds of toxics from a POTW. Less than one million pounds of toxics were directly released to the Illinois River compared to 13 million pounds discharged via POTWs. During these years, the Kalamazoo River in Michigan, the Sacramento River in California, the Onondaga Lake in Syracuse, New York, all received more than 95 times the amount of toxic chemicals via sewage treatment plants than were directly discharged into these rivers. Perhaps most striking, the Ruritan River in New Jersey received 50,000 times more toxics from POTWs than were directly discharged into the river. For rivers like the Ruritan, essentially all of their point source toxic load comes from POTWs. This is exactly the type of information that we are missing in the TRI, and this demonstrates why we need information from POTWs to complete the picture of toxics released in our communities.

The EPA has proposed the TRI reporters be required to specify the fate of chemicals that they transfer to POTWs. Under this proposal, each facility would be required to estimate the amount of each chemical that is discharged from the POTW and the amount that remains in the sludge. This is a direct departure from the way in which some of the recently added facilities like RCRA Subtitle C landfills report their releases, and it is a confusing and inexact method of reporting these discharges.

The first major problem with this proposal is the increased chance that the reported data might not accurately represent the actual discharges. The public has the right to know exactly which waterways are being impacted by chemicals and how much of these chemicals are being released. If companies simply reported the releases from the POTWs, then there would be a chance that the public would mistake the receiving waters as those being nearest to the plant. One cannot assume that a given company's receiving waters are the same as those of the local POTW because in many cases, the impacts to the primary receiving water such as Gravelly Run are more relevant than impacts to a larger watershed such as the James River.

MR. KOFFMAN: One minute, Todd. Excuse me.

MR. HETTENBACH: Okay. If the company discharges to the James River and one assumes the POTW does as well, the impacts to Gravelly Run will be ignored, and that is precisely the waterway of concern. Also, the amount of chemicals released depend on a number of variables that are local to the POTW. Residence times and strong water overflows are just two factors that can affect these release rates. POTWs are required to pay attention to these variables but individual TRI facilities generally are not. Therefore, it would make it difficult for the facilities to give an accurate representation of where their chemicals actually end up.

The second problem with having TRI reporters report releases by POTWs is that this restricts analysis to chemicals released by TRI reporters. Some additional sources include domestic households, urban runoff and the cadre of small facilities not required to report to TRI. They would still be absent from the inventory. In 1991, the General Accounting Office estimated that these sources represent 95 percent of all

chemicals released. Surely, this number is going to be lower now than it was at that point, but it is still a significant portion of the total chemical load.

In order for communities and government agencies who rely on TRI to have a true picture of what is going into their local water body or contained in their sewer sludge, POTWs need to report to TRI. Do I have --

MR. KOFFMAN: I have to call time on you. We did want to leave a minute for questions.

MR. STEIDEL: You talked really fast. Could you give me that Gravely Run number one more time?

MR. HETTENBACH: Sure thing. It's funny. I thought I was going to be the only one for 15 minutes. Gravely Run, 6.3 million pounds of direct discharges and 20 million pounds through the POTW.

MR. STEIDEL: I will respectfully tell you those numbers are incorrect.

MR. HETTENBACH: Those numbers were generated by using the 25 percent pass through rate from —

MR. STEIDEL: Very good.

MR. KOFFMAN: Joan?

MS. FASSINGER: Can we get a copy of your statement?

MR. HETTENBACH: Absolutely. I can make copies and get them out.

MS. PRICE: You can provide it to me, and I will get it out to everybody.

MR. HETTENBACH: That would be great.

MR. KOFFMAN: Thank you, Todd. The next commentor will be Rick Latimer.

MR. LATTIMER: I need to be going.

MR. KOFFMAN: Okay, great. I mean, I am sorry, Rick.

[Laughter.]

I mean, we would like to hear from you at another time. You all will notice that gives us more time for the other commentors. Kevin Romberg.

MS. PRICE: I think Dwight was up. I crossed off Dwight's name instead of —

MR. KOFFMAN: You did cross Dwight's name.

MR. EMERSON: I got crossed, but I am back. I gave a presentation this morning about energy recovery and an argument to classify that as source reduction. Does everybody have that or everybody remember that? I felt a little rushed in the time that I had, so I wanted to take an opportunity to focus on the key element, and that is, I think, the integral to and necessary for. Before I do that, I really want to express my appreciation for the deliberateness with which the committee is working. This is very important for TRI. This is going to produce a better product, I think, in the end result than what we had the first time. I would like also to request that this issue get put on the agenda for the next meeting, if it can, to get openly aired and discussed.

First of all, before I get into the integral to and necessary for, is there anything I said that was not understood or you think needs further explanation? Okay.

MR. ORUM: How can a one-way stream in which you produce waste and burn it out be integral to and necessary for when in fact source reduction would mean you were not producing that material to be burned up?

MR. EMERSON: To try to answer that question, it is a multiple comment. In energy recovery, I guess the point of energy recovery is to recover energy. It is not to

destroy waste or combust the waste. The purpose of it is to recover energy. If there is something there from which energy can be recovered, from an energy recovery point of view, it does not make any difference whether it is a fuel or whether it is a waste.

MR. ORUM: From that standpoint then, should all of the waste that is reported as energy recovery under TRI now be reported as waste instead?

MR. EMERSON: I would argue no because they are not waste, and I think EPA has taken the position that they are not necessarily waste. They talk about spent solvents or spent materials. The getting hung up on the definition of a waste or waste stream has been a very knotty one, a very difficult one to deal with. The proposal I am suggesting the committee review is whether it is a waste or not a waste is not crucial to what the statute asks for. The statute does not mention energy recovery in it. It got put in there for other reasons, and I hope that gets debated. What is important is does it meet the definition of source reduction. If it meets the definition of source reduction, it should be given credit for that.

MS. FERGUSON: Are there extra copies of your presentation. Does Michelle have those?

MR. EMERSON: I had 32 that I brought and distributed.

MS. PRICE: Let me look up here.

MR. GARNER: May I ask, what is the practical consequence of this for those who have to report?

MR. EMERSON: The practical consequence is that, and I mentioned this in the presentation, that by including it in Section 8.1 through 8.7, it is considered a bad thing. The smaller the number the better in 8.1 through 8.7; the larger the number, the worse it is. So, that serves as a discouragement for energy recovery. The practical consequence is that you are discouraging something you really want to encourage.

MR. COMAI: Have you ever been to one of these offsite fuel blenders?

MR. EMERSON: Yes, I have. I have been to many energy recovery facilities, and I will say that —and EPA has said this in their data release. You get between 95 and 98 percent destruction of that toxic chemical when it goes through an energy recovery unit. Not that that is the criteria you should use; you should meet the criteria that is specified in the act with respect to whether it meets the definition of source reduction.

MR. COMAI: I just think there is a host of hazards that are generated when you are shipping the stuff there, it is being blended, used in a boiler or a cement kiln. It is —

MR. EMERSON: That is correct and

MR. COMAI: -- going to be generating some air contaminants.

MR. EMERSON: As I also said, those releases from that, that is still considered otherwise used. Releases from combustion from energy recovery are reported just as it would be from fuel. The recording is still done; it is just where on the Form R you are going to put that information and whether you are going to give it credit for being a source reduction option or not.

MS. FASSINGER: Are we discussing this or having questions?

MR. KOFFMAN: It sounds like questions to me. We have another minute.

MR. EMERSON: I will get back to the balance of my time. I would reiterate that I would like to see this debated fully by the committee if they would, please.

MR. ORUM: I can only offer the opinion, having debated this a lot before, what is a waste/what is not a waste. We went through this ad nauseam in a previous

iteration. Personally, I would strongly prefer to leave it at that not only because, obviously, I disagree that this is in fact source reduction but because we produced a big report on areas that we agreed, disagreed, and left it then to EPA to come out with the final rules. I can only offer that opinion.

MR. KOFFMAN: That pretty much used up the time anyhow, so our next commentor would be Kevin Bromberg.

MR. BROMBERG: Since my four minutes went so well this morning, I thought I would go a little bit, maybe 30 percent slower, and maybe you will capture some of it. At lunch, a couple of additional points were raised to me, so I want to address those and also come back a little bit so that we can catch a little bit more of a flavor of what was going on with Form A. This is the Form A. This was the development that came out of the SBA petition in 1991 that some of you know about. The original idea was to take small sources and say why should they report under Form R at all because it is de minimis. It is just like a small quantity generator that does not report under RCRA and just like a small discharger does not report to a POTW. That is the analogy that we made, and the EPA instead of adopting that idea came up with the Form A. It was a very fine idea.

So, the Form A was a mini Form R. The Form A allows you to save dollars because the form is shorter and requires you to do less things. I am going to go through my outline of additional points that some of you will have in front of you momentarily as it goes around. Why do we care about the Form A revision. One is you will be impressed as I was by the large cost and the large amount of paperwork hours that goes into TRI generally. We are talking about eight million paperwork hours, and we are talking about \$480 million a year. Those are EPA figures; industry figures would be several times that. For the purpose of this illustration, I think it tells the point. \$100 million is a major rule, and this is four times that even by EPA's estimate. Anything you can do to reduce the burden, as I think everyone in this room appreciates, that is a big deal.

What does Form A do according to the EPA. The EPA says that the current Form A which addresses a pretty small universe, only 12,000 forms out of the roughly 80,000, that is 500,000 hours per year, which is a nice chunk of change, \$30 million. SBA's proposal is to expand the Form A in ways that we will not describe here in any detail but by having it applicable to more people. My very rough estimate is that I can triple that universe of what EPA has currently available to you.

Going to point two, which is very important, which is, what does the current Form A do. What is the famous missing information. What is the significance of this. Even in the worst case scenario, 500 pounds on every Form A, which the real average is 100 pounds if you use the 1994 data. Even if you use 500 pounds, it is 4.5 million pounds waste generated—not released, waste generated, which I think you spent a lot of time talking about, compared to 3.5 million square miles in America. You can do the math. You can decide whether that is significant information lost in any community in America.

It raises the issue next of local hot spots. Okay, so one is not significant. Maybe two are not significant. What about three, four. What if they are all in the same community. We have looked at this issue a couple of years ago, and we looked in New Jersey, and I found that in all of the ZIP Codes in New Jersey, which is a pretty concentrated state, or at least as concentrated as I thought I could find, I found three facilities or two facilities accumulated a total of 20,000 pounds of different TRI chemicals. That is using a 5,000 pound threshold. If you use 5,000 or you use 2,000, obviously the numbers will be less. I found no local hot spots. I suspect the same situation

is true today.

Four, a very important point. What is the big deal. What is the big savings in the Form A. EPA's estimate, we think, is very wrong in terms of what the savings are. I think they are much larger for a very simple reason which is it does not cost very close to the amount of money to fill out the Form R to do the Form A because you have done the Form R before. You know what the sums of 8.1 through 8.7 are already, and for these kinds of facilities, we are generally talking things that do not change very much from year to year. So, you are talking the back of the envelope estimate. Instead of costing, I think EPA's estimate is \$3,000, I think it is closer to \$500. Almost equally important is if you have a 500 pound release and your threshold is 2,000 pounds, it does not take you a lot of work to say I am under 2,000. If you are at 100 pounds and you are under 2,000 pounds, it takes you even less time to figure that out.

Based on those two points alone, I think that the savings are very substantial. I think a lot of people have not thought about that. EPA's estimates are based on an average type situation, and they are really not taking into account the factors that I mentioned above. So, having the Form A, not just because it is shorter but that large chunk of time that goes to the estimate is pretty significant.

Another thing that came up at lunch which I chuckled over is, hey, we represent small businesses, but this is a big break for large businesses. Do not miss this one. You can take the same advantage of it that the small guys are. It is for small guys, but everybody can use this. It would not be fair, I think, not to allow large businesses to take advantage of something that is a mini-Form R where the information is just as insignificant if it came from a large firm.

The last point is, all right, what do we do about all of this. We are lucky. It turns out that the issue paper has been written already. I did not get a chance to talk about this before. EPA wrote an interim report on the Form A for the Paperwork Reduction Act. We are about to complete a study which is very analogous to EPA's report. We give it to EPA, and they will get to read it. There is a paperwork comment period ending February 23. Your meeting is in March. You are very ready to have a conversation about this, a half hour or an hour to do this, and I think the time is right if you want to complete action by the end of this year so that it will be in time for the next industry expansion. I will take questions.

MR. KOFFMAN: Thank you. We have one more speaker, but we will take one question.

MS. FERGUSON: I am sorry, I am slow, but what is the relationship to the million pounds to the square miles?

MR. BROMBERG: That is just a comparison. I am taking the average. There is no relationship between the two. These are national figures. That is the national number of square miles in America, and this is the total number of pounds in a worst case. That gives you an idea of how dense these releases and waste generated could be if you spread them across America. That shows you how small it is compared to any localized emissions. Another way of looking at it is if you multiply by a factor of 10 or multiply it by a factor of 100 and putting it all in one place; you still do not end up with much. That is the total worst case.

MR. KOFFMAN: Thank you. We have one more speaker, Sam Habib. we are five minutes behind schedule, but we are going to listen to Sam for five minutes, and then we will adjourn.

MR. HADEED: Hopefully, I will not take that long. I am with the Association of Metropolitan Surge Agencies, and we had an interest in the accuracy of the TRI reporting system. We completed a year-long study last May to look at how some of the dischargers and reporters under TRI actually report that information to the POTWs, and we found that there was a big discrepancy in how that data is reported. We made the analysis known in the report. In addition to that, we have looked at the same data that the Environmental Working Group had used. We did an analysis of the top ten chemicals that are listed in the EPA TRI report from 1990 to 1994. It was interesting in that we have already determined what the removal efficiencies are for these top ten chemicals, of which three of them are delisted. Those are ammonium nitrate, ammonium sulfate and acetone. The remaining three of the seven are acids, all of which have to be neutralized before discharge to the POTW which essentially means that the POTW has 99.9 percent of that substance removed. In addition, substances like ammonia, 99.9 percent of that originates from domestic sources. For methanol, for example, there is 90 percent removal efficiency. For zinc and zinc compounds, 70 percent.

The point I am trying to get here is that reporting use with release is totally inaccurate. If an industry discharged sulfuric acid to the sanitary sewer system, we would not have any sewer systems if it was reported in that form. It is the ionic form that is discharged to the POTW. If we are looking at the POTW not reporting or we are missing a lot of chemicals, 80 to 90 percent of the chemicals that are reported in the TRI are already over reported by more than 90 percent. Likewise, a number of the companies that were listed in the —we looked at the top 50 companies. Monsanto, for example, which was at the top of the list, most of the chemicals that they have discharged are like methanol. A majority of that chemical is already removed by the POTW. So, there is gross inaccuracy in how that data is reported to the TRI, and I commend this effort of the FACA group to try to look at ways to better, at accuracy in how the data is actually reported so that the public has a better understanding of the true nature of what is being released into the environment, not merely what is being used. I think that is really the heart of this issue here. Thank you.

MR. KOFFMAN: Any final questions for Sam?

MS. DOA: I just have a clarifying statement. Ammonium nitrate actually still —is not off the list. It is still covered by ammonia, aqueous ammonia and nitrate compounds.

MR. KOFFMAN: All right. Final comment. Yes, Sam?

MR. CHAMBERLAIN: I guess we will have a full group here tomorrow, and before we start bailing out early perhaps tomorrow afternoon, people having to catch planes. There has been two, I guess, proposals before this committee to consider small business option and this energy recovery issue. I do not know, when we first started out on this process, we had talked about addressing the small business issue at some point in time in the agenda. So, I would like to hear from David or Maria whether or not we do intend to address that issue. That is question A.

Secondarily, is it appropriate for this group to address the energy recovery issue. My thought there is that as I was listening to his discussion, in terms of the business side of things and the way the TRI number is put together, today there are industries in the U.S. that are making poor business decisions because of the TRI process, the way it was set up years ago. I can see ourselves ten years from now in terms of energy recovery in the U.S. where businesses could be making poor decisions when the energy recovery

could be a primary component of the way that we need to operate in order to maintain our standard of living. Would it be prudent for us to perhaps maybe look at that issue in a context in terms of it being a waste the way it is currently structured that would cause industries later to be making poor decisions because of the TRI and the way that energy recovery is classified.

MS. DOA: I need to check because while—I mean, it is clearly, for us, a waste. It clearly should be reported in Section 8. We have been sued on this, so—

MR. CHAMBERLAIN: Oh, have you.

MS. DOA: Yes. I need to find out what the—our attorneys are gone. I have to find out about that and get back tomorrow whether we would even want to really bring it out.

MR. CHAMBERLAIN: What about the small business Form A thing? Is that on the table?

MS. FERGUSON: I really think that it needs to be at some point in time. We need to schedule a discussion.

MS. DOA: Sure. I imagine we can put that on the table.

MR. FEES: We do not even have an item for the next meeting, and we will be discussing tomorrow afternoon what that next meeting will be. So, I think we will kind of throw it into the mix there.

MR. CHAMBERLAIN: For some meeting at least.

MR. FEES: Yes, it might not be for the next meeting.

MR. KOFFMAN: Thank you for your hard work today, and we will see you at 8:30 tomorrow morning if you need to hear about travel. Otherwise, we will begin at 9:00. Thank you very much.

[Whereupon, at 4:40 p.m., a recess was taken until 8:30 a.m. the following day, January 30, 1998.]